

The DOMESTIC VIOLENCE LAW CLINIC

at

**The University of Arizona
James E. Rogers College of Law**

**1145 N. Mountain Street
Tucson, Arizona 85719
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CLINIC MANUAL*

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*DISCLAIMER STATEMENT This on-line version of the Clinic Manual contains excerpts from a larger hard copy version of the manual that is available to clinic students, faculty and staff. You may not rely upon any information contained in this manual to engage in the unauthorized practice of law. The Domestic Violence Law Clinic, James E. Rogers College of Law, The University of Arizona assumes no responsibility, liability or other accountability for your reliance on any of the information contained in this manual. Further, nothing in this manual is meant to substitute for the legal advice and opinion of a licensed attorney. If you are involved in a legal action or you are contemplating filing a legal cause of action, you are advised to seek the professional advice and opinion of a licensed attorney.

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1. IMPORTANT PHONE NUMBERS

The Shelters

The Brewster Center

<http://www.thebrewstercenter.org/>

P.O. Box 43006
Tucson, Az 85733

Main shelter: 623-3246; Fax: 791-9252
Casa Amparo: 746-1501
(P.O. Box 11821, Tucson, Az, 85734)

Outreach Center: 881-7201
Administration: 320-7556

Tucson Centers for Women & Children (TCWC)

<http://www.tucsoncenters.com/>

P. O. Box 40878
Tucson, Az 85717

Main shelter: 795-4266
Ava House: 795-4880
Administration: 795-8001

Advocacy and Outreach Centers

The Brewster Outreach Center

2711 E. Broadway
Tucson, AZ 85716

Phone: 881-7201

The Oasis Center for Sexual Assault and Relationship Violence

<http://w3.arizona.edu/~oasis/home.htm>
Old Main, Room 228
Tucson, AZ 85721

Phone: 626-2051

Wingspan Domestic Violence Project

300 E. Sixth Street
Tucson, AZ 85705

Phone: 624-0348

Pascua Yaqui Indian Reservation

Centered Spirit Program
7474 S. Camino de Oeste
Tucson, AZ 85746

Phone: 883-5020 x.6500

Southern Arizona Center Against Sexual Assault (SACASA)

1632 N. Country Club
Tucson, AZ 85716

Phone: 327-1171

Tucson Indian Center
705 N. Main Avenue
Tucson, Arizona 85705

Phone: 884-7131

Law Enforcement

TPD (Tucson Police Department)
270 S. Stone Avenue

Phone: 791-4499
Fax: 791-5491

Pre-trial interview requests
Phone: 791-4881

Police Personnel
Phone: 791-4478

Records
Phone: 791-4461

Domestic Violence Detectives
Phone: 791-5159

Midtown Substation
3202 East 1st
Phone: 791-4253

Rillito Substation
1019 W. Prince Rd.
Phone: 791-4467

Rincon Substation
9670 E. Golf Links Rd.
Phone: 791-4051

Santa Cruz Substation
4410 S. Park Ave.
Phone: 791-4949

SO (Pima County Sheriff's Department)
1750 E. Benson Highway
Tucson, Az 85714

Phone: 741-4600
Fax: 741-4622

Independent Police Auditor (City)
255 W. Alameda

Phone: 791-5176

911 Communications Center
4004 S. Park Ave.

Phone: 791-2563

Pima County Sheriff's Department
Civil Division - Civil Service of Process
32 N. Stone, Suite 808
Tucson, Az 85701

Phone: 740-5510

Pima County Jail
1270 W. Silverlake
Tucson, AZ 85713

Phone: 547-8181

Courts

Tucson City Court

Phone: 791-3260

Website: <http://schwartz.ci.tucson.az.us/courts/cover.htm>

103 E. Alameda
Tucson, AZ 85701

Domestic Violence Clerk

Phone: 791-4971

Clerk of Court (Records)

Phone: 791-5474
Fax: 791-5451

Language Interpreter

Phone: 791-3926, ext. 1711

Pima County Justice Court

Phone: 740-3171

Website: <http://jp.co.pima.az.us/www/iserv.html>

115 N. Church Avenue, 2nd Floor
Tucson, Az 85701

Green Valley Branch

Phone: 648-0658

601 N. La Canada
Green Valley, AZ 85614

Pima County Superior Court

Phone: 740-3201

Website: <http://www.sc.co.pima.az.us/>

110 W. Congress St.

Tucson, Az 85701

Calendaring

Phone: 740-8424

Filing

Phone: 740-3210

Court Reporter

Phone: 740-3114

Interpreters

Phone: 740-3888

Conciliation Court Services

Phone: 740-5590

Prosecution agencies

Office of the Tucson City Attorney, Criminal Division

Phone: 791-4104

P.O. Box 27210

Tucson, Arizona 85726-7210

Pima County Attorney, Misdemeanor Unit

Phone: 740-5658

32 N. Stone Ave., #900

Tucson, Arizona 85701-1412

Visitation Services

JSP (Judicial Supervision Program)

Phone: 327-4583

Casa De Los Niños

Phone: 624-5600

Child Support

Pima County Attorney, Child Support Division

Phone: 622-7000

D.E.S. Family Assistance Program

Phone: 628-6810

Court-Related Services

Court Runner Process Service

Craig W. Malloy & Associates

Phone: 792-0250

E-Z Messenger Service

Phone: 623-8436

Court Reporters (for depositions)

Bouley, Schlesinger, Dicorti & Schippers Phone: 623-7573

Language Interpreters

Arizona Relay Service for Deaf Phone: 1-800-842-4681

APPROVED DV TREATMENT PROVIDERS

A Real Choice Counseling: 2030 E. Broadway, Suite 107,
Tucson, Az 85719
Mr. Jean Price
(520) 489-0681

Alive And Whole Again Counseling:
3925 E. 5th Street,
Tucson, Az 85710
Mr. John Seck
(520) 322-9914

Aztec Counseling Services: 6816 N. Oracle Rd, #310
Tucson, Az 85704
Mr. Jerry Snyder
(520) 297-1923

Cactus Counseling Associates: 149 N. Stone Ave., Suite 301
Tucson, Az 85701
Mr. Terry Gray
(520) 798-3659

Marana Health Center, Inc.: 13644 N. Sandario Rd.,
Marana, Az 85653
Ms. Ora Mae Harn
(520) 682-4111

Reflection Family Services, Inc. 2530 E. Broadway, Suite A
Tucson, Az 85716
Ms. Terry Stoe
(520) 795-0981

Ronstadt & Richeson Counseling: 4625 E. Broadway, Suite #221B
Tucson, Az 85711
Ms. Marjorie Richeson
(520) 917-014

WEBSITES

Pima County Justice Court Internet Services

<http://jp.co.pima.az.us/www.iserv.html>

Tucson City Court

<http://www.ci.tucson.az.us/courts/>

Arizona Superior Court In Pima County

<http://www.sc.co.pima.az.us/>

Arizona Self Service Center Forms (divorce packet)

<http://www.supreme.state.az.us/selfserv/default.htm>

Arizona Child Support Guidelines Calculator

<http://www.supreme.state.az.us/childsup/>

Alta Vista (text) Translation Software

<http://babelfish.altavista.com/translate.dyn>

Support Kids

<http://www.supportkids.com>

Maricopa County Self Service Center

<http://www.superiorcourt.maricopa.gov/ssc/sschome.html>

Domestic Violence Related Resources

Advocacy at Brewster Center	.....	881-7201
AL-ANON	.....	323-2229
AHCCCS Eligibility	.....	740-3730
Casa Paloma	.....	882-0820
Chicanos Por La Causa	.....	882-0018
Child & Family Resources – Parenting/Support/Education/Day Care Information	.....	881-8940
Consumer Credit & Counseling Agency	.....	795-2227
Counseling at Brewster Center	.....	881-7201
DES Daycare	.....	741-0964
DES Food Stamps/AFDCE	.....	791-2732
Elder Shelter, La Fronter	.....	327-2665
El Rio Health Center	.....	792-9890
Emergency For Elders	.....	566-1919
Food Bank	.....	623-7956
Housing – Section 8	.....	791-4739
Immigrant Legal Assistance – Southern Arizona Legal Aid	.....	623-9461
Information and Referral Services	.....	881-1794
Our Town Family Center (Mediation)	.....	323-1708
Public Health Nurse	.....	293-4620
St. Elizabeth Clinic	.....	628-7871
Traveler’s Aide	.....	622-8900
Victim Compensation	.....	740-5525
WIC-Nutrition for Pregnancy/Nursing/Women &Children	622-0559

Chapter Two

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Chapter Two

Legal Referrals

SALA (Southern Arizona Legal Aid)
64 E. Broadway Blvd.
Tucson, Az 85701-1720
(All civil matters)

Phone: 623-9465
Fax: 623-0161

Pima County Bar Association
<http://www.pimacountybar.org/>
Reduce Fee Panel
177 North Church Avenue, Suite 101
Tucson, Az 85701
(Civil and criminal)

Phone: 623-8258

Southern Arizona People's Law Center
611 N. Fourth Avenue
Tucson, Az 85705
(Housing)

Phone: 623-7306

**Tohono O'Odham Nation
Advocate Office**
P.O. Box 912
Sells, Az 85634

Phone: (520) 383-2221

(Civil and criminal matters for members only)

Pima Council on Aging
5055 E. Broadway, Suite C-104
Tucson, Arizona 85711
(Civil)

Phone: 790-7262

Lawyer Referral Service
177 N. Church Avenue, #101
Tucson, Az 85701
(Civil and criminal)

Phone: 623-4625

Indigent Defense Services
(Felony defense representation)

Phone: 740-5390

Office of the Pima County Public Fiduciary
10 E. Pennington St.
Tucson, Arizona 85701-1522
(Probate and adult guardianship)

Phone: 740-5454

**Arizona State Bar Association
Consumer Assistance Program**
(for attorney complaints)

Phone: 602-340-7280

Arizona State Bar Certified Family Law Specialist
<http://www.azbar.org/>

Chapter Three

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3. ORDERS OF PROTECTION/INJUNCTIONS AGAINST HARASSMENT

A) COMMONLY ASKED QUESTIONS ABOUT THE ORDER OF PROTECTION

WHAT IS DOMESTIC VIOLENCE?

Domestic violence is any one of the following crimes under the law:

Dangerous Crimes Against Children (13-604.01)

Endangerment (13-1201)

Threatening and Intimidating (13-1202)

Assault (13-1203)

Aggravated Assault (13-1204)

Custodial Interference (13-1302)

Unlawful Imprisonment (13-1303)

Kidnapping (13-1304)

Criminal Trespass, (13-1502 to 13-504)

Criminal Damage (13-1602)

Interfering with judicial proceedings (13-2810)

Disorderly Conduct (13-2904)

Telephone to Harass (13-2916)

Harassment (13-2921)

Stalking (13-2923)

Child or Vulnerable Adult Abuse (13-3623)

WHAT IS AN ORDER OF PROTECTION (OOP)?

- ❑ A CIVIL order that prohibits a single Defendant from committing **domestic violence** against the Plaintiff/Victim.
- ❑ There are NO mutual orders of protection in Arizona.
- ❑ Commonly referred to as a “restraining order,” or an “injunction,” or a “peace bond.”

WHO CAN QUALIFY FOR AN OOP?

- ❑ The “Relationship Test”
Are the parties related to one another through any of the following relationships::
 - ❑ Spouse or former spouse
 - ❑ Roommate or former roommate
 - ❑ child in common or pregnancy
 - ❑ parent/child
 - ❑ siblings
 - ❑ grandparent/grandchild
 - ❑ in-laws (includes parent/grandparent/brother/sister)
 - ❑ step-parent/step-child (includes step grandparent/step-grandchild)

HOW TO OBTAIN AN OOP?

- ❑ File a written and verified petition with the court.
- ❑ The Petitioner must be 18 years or older.
- ❑ Petition must include the following information:
 - name and address (Confidential on request)
 - the abuser’s name and address
 - a specific statement about the domestic violence, including dates, that occurred with the last year.
 - relationship to the abuser
 - a list of any other court cases involving the parties
 - a request for specific relief from the court
- ❑ No Filing Fee required for the issuance of the OOP.
- ❑ Pay the fee to the police or sheriff to serve the papers on the abuser, or get the fee waived.

WHERE TO OBTAIN AN OOP?

- ❑ Tucson City Court
103 East Alameda
Tucson, Arizona.
791-4971
- ❑ The Brewster Center Outreach & Advocacy Program
2711 East Broadway
Tucson, Arizona
881-7201
- ❑ Pima County Superior Court
110 West Congress
Tucson, Arizona
740-3201

**The OOP must be requested in Superior Court if the parties are presently involved in a divorce, paternity, or custody case.*

WHAT RELIEF CAN BE INCLUDED IN AN OOP?

- ❑ NO DOMESTIC VIOLENCE
- ❑ EXCLUSIVE USE AND POSSESSION OF A RESIDENCE
- ❑ NO CONTACT W/ VICTIM IN PERSON, BY PHONE, WRITING OR 3RD PARTY
- ❑ NO CONTACT W/VICTIM AT JOB, SCHOOL, OTHER LOCATIONS
- ❑ NO CONTACT W/CHILDREN* OR OTHER PROTECTED PARTIES
- ❑ NO FIREARMS
- ❑ DOMESTIC VIOLENCE COUNSELING
- ❑ ANY NECESSARY RELIEF TO PROTECT THE VICTIM

**Children will NOT be included as protected parties on the OOP unless the court makes a finding of reasonable cause to believe the Defendant has or may commit an act of child abuse.*

WHAT HAPPENS AFTER THE OOP IS GRANTED?

SERVICE OF PROCESS (NOTICE)

- ❑ The Defendant must be served with a copy of the petition and order of protection in order for the OOP to be in effect against the Defendant.
- ❑ The Defendant must be served within one year from the date the order was granted.
- ❑ The OOP is sent by the clerk of the court to the Pima County Sheriff for entry into the computer data base.

HEARINGS (OPPORTUNITY TO BE HEARD)

- ❑ The court must give the Defendant ONE hearing on the OOP, but only if the Defendant makes a written request for a hearing.
- ❑ The hearing must be held within 5 business days of the written request if the Defendant has been excluded from his residence.
- ❑ The hearing must be held within 10 business days of the written request if the Defendant has NOT been excluded from his residence.
- ❑ Once a Defendant is afforded DUE PROCESS (NOTICE + OPPORTUNITY TO BE HEARD) then certain legal prohibitions, rights and remedies attach, including:
 - PROHIBITED GUN POSSESSOR LAWS
 - COURT ORDERED COUNSELING/TREATMENT
 - FULL FAITH AND CREDIT IN OTHER JURISDICTIONS
 - RIGHT TO APPEAL

HOW LONG DOES AN OOP LAST?

- ❑ One year from the date of service of the OOP on the Defendant.

WHAT HAPPENS IF THE OOP IS VIOLATED?

- ❑ Only the Defendant can violate the terms of an OOP.
- ❑ Mandatory arrest upon probable cause of violation by the Defendant.
- ❑ The County or City Attorney will decide whether or not to prosecute the case and the Defendant may be found guilty of a misdemeanor offense.
- ❑ A Defendant found guilty of a misdemeanor domestic violence offense must complete in a violence offender treatment program.

B) COMMONLY ASKED QUESTIONS ABOUT THE INJUNCTION AGAINST HARASSMENT:

WHAT IS AN INJUNCTION AGAINST HARASSMENT?

- ❑ A civil order that prohibits one person from **harassing** another person or persons.
- ❑ NO RELATIONSHIP TEST required.

WHAT IS HARASSMENT?

- ❑ Harassment is defined under A.R.S. §12-1809 R as a series of acts over any period of time that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose.

HOW TO OBTAIN AN INJUNCTION AGAINST HARASSMENT?

- ❑ File a written and verified petition with the court.
- ❑ The Plaintiff must be 18 years or older.

- The petition must include the following information:
 - Plaintiff's name and address (may be kept confidential)
 - The Defendant's name and address
 - A specific statement about the harassment, including dates, that occurred within the 12 months.
 - Allegation of irreparable injury (if no prior notice to defendant)
 - A list of any other court cases involving the same parties
 - A request for specific relief from the court.
- Pay the \$5.00 fee for filing the case, or get the fee waived.
- Pay the fee to the police or sheriff to serve the papers on the abuser, or get the fee waived.

WHAT RELIEF WILL BE INCLUDED IN AN INJUNCTION AGAINST HARASSMENT?

- NO HARASSMENT
- NO CONTACT
- ANY NECESSARY RELIEF TO PROTECT THE VICTIM

**Note that exclusive use of home and prohibitions against firearms are not available forms of relief.*

WHAT HAPPENS AFTER THE INJUNCTION AGAINST HARASSMENT IS GRANTED?

SERVICE OF PROCESS (NOTICE)

- The Defendant must be served with a copy of the petition and injunction in order for the IAH to be in effect against the Defendant.
- The IAH must be served within one year from the date the injunction was granted.
- The injunction is registered with the County Sheriff.

HEARING (OPPORTUNITY TO BE HEARD)

- The court must give the defendant one hearing on the injunction, but only if the defendant makes a written request for a hearing.
- The hearing must be held within 10 days of the written request.

HOW LONG DOES AN INJUNCTION AGAINST HARASSMENT LAST?

- One Year from the date of service on the Defendant.

WHAT HAPPENS IF THE INJUNCTION AGAINST HARASSMENT IS VIOLATED?

- The Defendant may be arrested and may be prosecuted for the crime of interfering with judicial proceedings under A.R.S. §13-2810.

C) DOMESTIC VIOLENCE APPEALS

- I. City Court Orders of Protection issued after a hearing (A.R.S. 22-425; 22-262)
And
City Court and Justice Court Misdemeanor convictions (Criminal)
 - a. Appeal is made to the Superior Court. (A.R.S. 12-124)
 - b. Within 10 days of the order a Notice of Appeal must be filed.
 - c. Appellant to order transcript (\$17)
 - d. Appellant to pay appeal fee

- II. Superior Court interim(temporary) orders for child custody
 - a. Special Action pursuant to Rules of Procedure for Special Actions.
 - 1. Whether the defendant has failed to exercise discretion...
 - 2. Whether the defendant has acted in excess of authority or jurisdiction...
 - 3. Whether the decision was arbitrary and capricious or an abuse of discretion.

- III. Superior Court final orders for child custody, divorce, support, etc...
 - a. The appeal is made to the Arizona Court of Appeals or the Arizona Supreme Court.
 - b. Within 30 days after entry of the judgment a Notice of Appeal must be filed with the Clerk of the Superior Court. (Rule 9 RCAP)
 - c. A fee is required to file the Notice of Appeal.
 - d. A \$500 cash bond for costs of appeal is required.
 - e. An affidavit of indigency can be filed to waive costs.
 - f. Order transcript within 10 days of filing Notice of Appeal.
 - g. File docketing statement with 10 days of filing Notice of Appeal.
 - h. No stay in cases involving custody of children
 - i. Clerk to transmit index of record to appellate court within 40 days from Notice of Appeal.
 - j. Appellate Court Clerk to notify appellant to pay docketing fee (\$140) and file brief. (Rule 12 a RCAP)
 - k. Brief due within 40 days of Rule 12(a) notice.
 - l. Answering brief and Appellee's docketing fee (\$70) due within 40 days after service of appellant's brief.

Chapter 4

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F.	Arizona Child Support Guidelines http://www.supreme.state.az.us/dr/childsup/drguide/htm	
G.	Proposed Parenting Time Plans http://www.supreme.state.az.us/dr/pdf/custvis.pdf	

4. DOMESTIC RELATIONS

A) THE DIVORCE WITH CHILDREN TIME LINE FOR PIMA COUNTY

<u>ACTION</u>	<u>TIME LINE</u>
Petition for Dissolution commences by filing:	Day 0
Cover sheet	
Application for Deferral or Waiver (\$201/\$156)	*(pre-approval required)
Affidavit in Support of Deferral or Waiver*	(pre-approval required)
Order for Deferral or Waiver*(pre-approval required)	
Preliminary Injunction(25-315)	
Notice of Right to Convert Health Insurance	
Notice of Community Debt Responsibility(25-318F)	
Order for Participation in Domestic Relations Education(25-352)	
Petition for Dissolution of Marriage(25-314)	
Irretrievable breakdown (25-316)	
Covenant grounds (25-903)	
Affidavit Regarding Minor Children (local rule 8.3 b)	
Parent's Worksheet for Child Support (25-320, Appendix 19)	
Spouse's Affidavit on Order to Show Cause (local rule 8.4 b)*(as needed)	
Local Rule 8.4*(as needed)	
Petition for Order to Show Cause*(as needed)	
Order to Show Cause*(as needed)	
Request for Hearing on OSC *(as needed)	
Petition for Temporary Custody (25-404)	

Petition of Temporary Restraining Order or Preliminary Injunction *(as needed)(25-315C)

Summons

Personal service on Respondent(Rule 4 i)	Up to 120 days
Respondent's waiver of service on request (Rule 4.1 c)	Up to 120 days
Publication service on Respondent (Rule 4.1 n)	Four successive weeks
Petitioner to complete Domestic Relations education	By date ordered
Respondent to complete Domestic Relations education	By date ordered
Response for AZ resident (Rule 12 a)	20 days after service
Response for AZ resident that has Waived service (Rule 12 a)	60 days after request
Response for NON-AZ resident (Rule 4.2 m)	30 days after service
Respondent's Petition for Conciliation (25-381.09)	Up to end of waiting period
Mediation Ordered and completed (local rule 8.7)	30 days before trial

ON GOING DISCOVERY AFTER PETITION FOR DISSOLUTION FILED

*(Must be completed at least 10 days prior to trial. Rule 38.1(f))

Rule 26.1 Disclosure by parties	30 days after mediation
Rule 26 to Rule 37 Discovery includes:	
Oral Depositions(Rule 30) (4 hour limit)	30 days after service on Respondent
Written Depositions(Rule 31) Answers	Anytime after action is commenced 50 days after service
Interrogatories (Rule 33) (Limit of 40) Answers	Anytime at or after service on Respondent 40 to 60 days later
Production of Documents(Rule 34) (10 item/category limit) Response	Anytime at or after service on Respondent 40 to 60 days later

Request for Admissions (Rule 36)	Anytime at or after service on Respondent
(25 limit) Response	40 to 60 days later
Mental and physical exams/Custody evaluations (Rule 35/ 25-406)	By order of court
Subpoena(Rule 45)	At deposition/trial
Subpoena <i>Duces Tecum</i> (Rule 45)	At deposition/trial
Motion for Comprehensive Pre-trial (Rule 16 c)	
Motion to Set and Certificate of Readiness (25-329; local rule 8.2; Rule 38.1)	No earlier than 60 days after service and no later than 180 days after filing
Application for Default (Rule 55 a)	Anytime after service and expiration of waiting period
Entry of Default (Rule 55 a 2)	10 days after filing application
Default hearing (Rule 55 b)	No earlier than 60 days after service and no later than 180 days after filing
Controverting Certificate (Rule 38.1)	Within 10 days after Motion to Set
Settlement Conference (local rule 8.3 f)	Set by court
Joint pre-trial statement(local rule 8.5)	Set by court
Trial(Local rule 8.2 b)	Within 60 to 120 days from filing of Motion to Set
Judgment mailed to defaulted Respondent (Local rule 8.2 d)	w/n 24 hours of judgment

B) 10 STEPS TO FILING DIVORCE PAPERS IN PIMA COUNTY

1. Make one original set of all documents and 2 copies. Separate each original document and group the copies with each original. The following documents must be filed:

DOMESTIC/PROBATE COVER SHEET
SUMMONS (Must be signed by the Clerk of the Court)
PRELIMINARY INJUNCTION (Must be signed by the Clerk of the Court)

PETITION FOR DISSOLUTION OF MARRIAGE
NOTICE OF HEALTH INSURANCE RIGHTS
AFFIDAVIT OF MINOR CHILDREN (3 copies are needed)
CREDIT NOTICE
SPOUSE'S FINANCIAL AFFIDAVIT
ORDER FOR PARTICIPATION IN DOMESTIC RELATIONS CLASS
INSTRUCTIONS FOR CLASS

2. Take the original set and two copies to the Clerk of the Pima County Superior Court, 110 West Congress, first floor.
3. The filing fee for your divorce is \$201.00 (\$171.00 w/o children). You must either pay the filing fee or submit an application for deferral. If you submit an application for deferral, then you must wait five to seven business days to see if your application is approved before the clerk will file your divorce papers.
4. Once you have either paid the filing fee or had your application approved, the Clerk should take all of your documents. She should keep the original set of everything and open up an official Pima County Superior Court file. The documents should be stamped with a case number and a date of filing. All copies of the documents should be returned to you as "conformed" (file stamped). The summons should be signed by the clerk and one of them should be certified (raised seal).
5. The Clerk must return to you the copies of all documents filed.
6. Take the documents to the Pima County Sheriff, Civil Process Division, 32 North Stone, Suite 808, Tucson Arizona. They will need the Original summons and a copy of all documents filed at the courthouse. Additionally, you will need to complete a form that asks for a physical description of your spouse. The Sheriff will bill you later for the fees associated with service of process.
7. Keep a copy of all records for your own files.
8. Contact the Sheriff's office to find out the date your spouse was served with the divorce papers.
9. When 20 days have passed since the date your spouse was served, you must file the APPLICATION AND ENTRY OF DEFAULT with the Clerk's office.
10. When the default date has passed AND the 60 DAY WAITING PERIOD HAS EXPIRED, you may obtain your divorce any day of the week, EXCEPT TUESDAY, at 1:30 p.m at the Superior Court. You will need to bring the following documents to complete your divorce:

DECREE OF DISSOLUTION OF MARRIAGE
CHILD SUPPORT ORDER
FACT SHEET
ORDER OF ASSIGNMENT
CHILD SUPPORT WORKSHEET

CHECKLIST FOR DOMESTIC CASES

DIVORCE (W/CHILDREN)

- ✓ Application for Deferral/Waiver of Fees (9 pages)
- ✓ Domestic/Probate Cover Sheet
- ✓ Summons
- ✓ Preliminary Injunction
- ✓ Petitioner for Dissolution of Marriage With Children
- ✓ Affidavit Regarding Minor Children
- ✓ Order for Participation in Domestic Relations Education Course
- ✓ Instructions to Register for DR Education Course (2 pages)
- ✓ Spouse Financial Affidavit
- ✓ Credit Notice
- ✓ Notice of Rights About Health Insurance
- ✓ Application for Default and Notice of Default
- ✓ Decree of Dissolution of Marriage With Children
- ✓ Parent's Worksheet for Child Support
- ✓ Child Support Order
- ✓ Order of Assignment
- ✓ Fact Sheet

ORDER TO SHOW CAUSE

- ✓ Petition for OSC
- ✓ Spouse's Financial Affidavit (1 completed and 1 blank for opposing party)
- ✓ Local Rule 8.4
- ✓ DR-13 Form For Hearing Request
- ✓ Confirmation Notice

MODIFICATION OF DECREE (CUSTODY)

- ✓ Petition to Modify Child Custody
- ✓ Supporting Affidavits
- ✓ Notice Of Filing Petition to Modify Child Custody
- ✓ Affidavit Regarding Minor Children
- ✓ DR-11 Form Request For Hearing

Chapter 5

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5. COMMONLY USED CODES

A) DOMESTIC VIOLENCE CODE PROVISIONS

13-3601. Domestic violence; definition; classification; sentencing option; arrest and procedure for violation; weapon seizure; notice; report; diversion

A. "Domestic violence" means any act which is a dangerous crime against children as defined in section 13-604.01 or an offense defined in section 13-1201 through 13-1204, 13-1302 through 13-1304, 13-1502 through 13-1504 or 13-1602, section 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3 OR 6, section 13-2916 or section 13-2921, 13-2921.01, 13-2923 or 13-3623, if any of the following apply:

1. THE RELATIONSHIP BETWEEN THE VICTIM AND THE DEFENDANT IS ONE OF MARRIAGE OR FORMER MARRIAGE OR OF PERSONS RESIDING OR HAVING RESIDED IN THE SAME HOUSEHOLD.

2. THE VICTIM AND THE DEFENDANT HAVE A CHILD IN COMMON.

3. THE VICTIM OR THE DEFENDANT IS PREGNANT BY THE OTHER PARTY.

4. The victim is related to the defendant or the defendant's spouse by blood as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepchild, step- grandchild, brother-in-law or sister-in-law.

5. THE VICTIM IS A CHILD WHO RESIDES OR HAS RESIDED IN THE SAME HOUSEHOLD AS THE DEFENDANT AND IS RELATED BY BLOOD TO A FORMER SPOUSE OF THE DEFENDANT OR TO A PERSON WHO RESIDES OR WHO HAS RESIDED IN THE SAME HOUSEHOLD AS THE DEFENDANT.

B. A peace officer may, with or without a warrant, arrest a person if the officer has probable cause to believe that domestic violence has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether such offense is a felony or a misdemeanor and whether such offense was committed within or without the presence of the peace officer. In cases of domestic violence involving the infliction of physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, the peace officer shall arrest a person, with or without a warrant, if the officer has probable cause to believe that the offense has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether such offense was committed within or without the presence of the peace officer, unless the officer has reasonable grounds to believe that the circumstances at the time are such that the victim will be protected from further injury. Failure to make an arrest does not give rise to civil liability except pursuant to section 12-820.02. In order to arrest both parties, the peace officer shall have

probable cause to believe that both parties independently have committed an act of domestic violence. An act of self-defense that is justified under chapter 4 of this title is not deemed to be an act of domestic violence. The release procedures available under section 13-3883, subsection A, paragraph 4 and section 13-3903 are not applicable to arrests made pursuant to this subsection.

C. A peace officer may question the persons who are present to determine if a firearm is present on the premises. On learning or observing that a firearm is present on the premises, the peace officer may temporarily seize the firearm if the firearm is in plain view or was found pursuant to a consent to search and if the officer reasonably believes that the firearm would expose the victim or another person in the household to a risk of serious bodily injury or death. A firearm owned or possessed by the victim shall not be seized unless there is probable cause to believe that both parties independently have committed an act of domestic violence.

D. If a firearm is seized pursuant to subsection C of this section, the peace officer shall give the owner or possessor of the firearm a receipt for each seized firearm. The receipt shall indicate the identification or serial number or other identifying characteristic of each seized firearm. Each seized firearm shall be held for at least seventy-two hours by the law enforcement agency that seized the firearm.

E. If a firearm is seized pursuant to subsection C of this section, the victim shall be notified by a peace officer before the firearm is released from temporary custody.

F. If there is reasonable cause to believe that returning a firearm to the owner or possessor may endanger the victim, the person who reported the assault or threat or another person in the household, the prosecutor shall file a notice of intent to retain the firearm in the appropriate superior, justice or municipal court. The prosecutor shall serve notice on the owner or possessor of the firearm by certified mail. The notice shall state that the firearm will be retained for not more than six months following the date of seizure. On receipt of the notice, the owner or possessor may request a hearing for the return of the firearm, to dispute the grounds for seizure or to request an earlier return date. The court shall hold the hearing within ten days after receiving the owner's or possessor's request for a hearing. At the hearing, unless the court determines that the return of the firearm may endanger the victim, the person who reported the assault or threat or another person in the household, the court shall order the return of the firearm to the owner or possessor.

G. A peace officer is not liable for any act or omission in the good faith exercise of the officer's duties under subsections C, D, E and F of this section.

H. Each indictment, information, complaint, summons or warrant that is issued and that involves domestic violence shall state that the offense involved domestic violence and shall be designated by the letters DV. A domestic violence charge shall not be dismissed or a domestic violence conviction shall not be set aside for failure to comply with this subsection.

I. A person arrested pursuant to subsection B of this section may be released from custody in accordance with the Arizona rules of criminal procedure or other applicable statute. Any order for release, with or without an appearance bond, shall include pretrial release conditions necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions which the court deems appropriate, including participation in any counseling programs available to the defendant.

J. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer shall inform in writing any alleged or potential victim of the procedures and resources available for the protection of such victim including:

1. An order of protection pursuant to section 13-3602, an injunction pursuant to section 25-315 and an injunction against harassment pursuant to section 12-1809.

2. The emergency telephone number for the local police agency.

3. Telephone numbers for emergency services in the local community.

K. A peace officer is not civilly liable for noncompliance with subsection J of this section.

L. An offense included in domestic violence carries the classification prescribed in the section of this title in which the offense is classified. IF THE DEFENDANT COMMITTED A FELONY OFFENSE AGAINST A PREGNANT VICTIM AND KNEW THAT THE VICTIM WAS PREGNANT, THE COURT SHALL INCREASE BY UP TO TWO YEARS THE MAXIMUM SENTENCE OTHERWISE AUTHORIZED.

M. If the defendant is found guilty of an offense included in domestic violence and if probation is otherwise available for such offense, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation or intensive probation, as provided in this subsection. The terms and conditions of probation or intensive probation shall include those necessary to provide for the protection of the alleged victim and other specifically designated persons and additional conditions and requirements which the court deems appropriate, including imposition of a fine, incarceration of the defendant in a county jail, payment of restitution, completion of a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department or any other counseling or diversionary programs that do not involve domestic violence and that are available to the defendant. On violation of a term or condition of probation or intensive probation, the court may enter an adjudication of guilt and proceed as otherwise provided for revocation of probation. On fulfillment of the terms and conditions of probation or intensive probation, the court shall discharge the defendant and dismiss the proceedings against the defendant. This subsection does not apply in any case in which the defendant has previously been found guilty under this section, or in which charges under this section have previously been dismissed in accordance with this subsection.

N. If a defendant is diverted pursuant to this section, the court shall provide the following written notice to the defendant:

You have been diverted from prosecution for an offense included in domestic violence. You are now on notice that:

1. If you successfully complete the terms and conditions of diversion, the court will discharge you and dismiss the proceedings against you.
2. If you fail to successfully complete the terms and conditions of diversion, the court may enter an adjudication of guilt and proceed as provided by law.

O. If the defendant is found guilty of a first offense included in domestic violence, the court shall provide the following written notice to the defendant:

You have been convicted of an offense included in domestic violence. You are now on notice that:

1. If you are convicted of a second offense included in domestic violence, you may be placed on supervised probation and may be incarcerated as a condition of probation.
2. If you are convicted of a third or subsequent offense included in domestic violence, you will be sentenced to a term of incarceration.

P. The failure or inability of the court to provide the notice required under subsections N and O of this section does not preclude the use of the prior convictions for any purpose otherwise permitted.

13-3601.01. Domestic violence; treatment; definition

A. The judge shall order a person who is convicted of a misdemeanor domestic violence offense to complete a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department. IF A PERSON HAS PREVIOUSLY BEEN ORDERED TO COMPLETE A DOMESTIC VIOLENCE OFFENDER TREATMENT PROGRAM PURSUANT TO THIS SECTION, THE JUDGE SHALL ORDER THE PERSON TO COMPLETE A DOMESTIC VIOLENCE OFFENDER TREATMENT PROGRAM UNLESS THE JUDGE DEEMS THAT ALTERNATIVE SANCTIONS ARE MORE APPROPRIATE. The department of health services shall adopt and enforce guidelines that establish standards for domestic violence offender treatment program approval.

B. ON CONVICTION OF A MISDEMEANOR DOMESTIC VIOLENCE OFFENSE, if a person within a period of sixty months HAS PREVIOUSLY BEEN convicted of a violation of a domestic violence offense or is convicted of a MISDEMEANOR domestic violence offense and has previously been convicted of an act in another state, a court of the United States or a tribal court that if committed in this state would be a domestic violence offense, the judge may order the person to be placed on supervised probation and the person may be incarcerated as a condition of probation. If the court orders supervised probation, the court may conduct an intake assessment when the person begins the term of probation and may conduct a discharge summary when the person is released from probation. If the person is incarcerated and the court receives confirmation that the person is employed or is a student, the court, on pronouncement of any jail sentence, may provide in the sentence that the person, if the person is employed or is a student and can continue the person's employment or studies, may continue the employment or studies for not more than twelve hours a day nor more than five days a week. The person shall spend the remaining day, days or parts of days in jail until the sentence is served and shall be allowed out of jail only long enough to complete the actual hours of employment or studies.

C. A person WHO IS ORDERED TO COMPLETE A DOMESTIC VIOLENCE OFFENDER TREATMENT PROGRAM shall pay the cost of the program.

D. If a person is ordered to attend a domestic violence offender treatment program pursuant to this section, the program shall report to the court whether the person has attended the program and has successfully completed the program.

E. FOR THE PURPOSES OF THIS SECTION, PRIOR CONVICTIONS FOR MISDEMEANOR DOMESTIC VIOLENCE OFFENSES APPLY TO CONVICTIONS FOR OFFENSES THAT WERE COMMITTED ON OR AFTER JANUARY 1, 1999.

F. For the purposes of this section, "domestic violence offense" means an offense involving domestic violence as defined in section 13- 3601.

13-3601.02. Aggravated domestic violence; classification; definition

A. A person is guilty of aggravated domestic violence if the person within a period of sixty months commits a third or subsequent violation of a domestic violence offense or is convicted of a violation of a domestic violence offense and has previously been convicted of any combination of convictions of a domestic violence offense or acts in another state, a court of the United States or a tribal court that if committed in this state would be a violation of a domestic violence offense.

B. A person WHO IS convicted under this section AND who within a period of sixty months has been convicted of two prior violations of a domestic violence offense or acts in another state, a court of the United States or a tribal court that if committed in this state would be a domestic violence offense is not eligible for probation, pardon, commutation or suspension of sentence or release n any other basis until the person has served not less than four months in jail.

C. A person WHO IS convicted under this section AND who within a period of sixty months has been convicted of three or more prior violations of a domestic violence offense or acts in another state, a court of the United States or a tribal court that if committed in this state would be a domestic violence offense is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served not less than eight months in jail.

D. The dates of the commission of the offenses are the determining factor in applying the sixty month provision in subsection A of this section regardless of the sequence in which the offenses were committed. For purposes of this section, a third or subsequent violation for which a conviction occurs does not include a conviction for an offense arising out of the same series of acts.

E. For the purposes of this section, prior convictions for misdemeanor domestic violence offenses apply only to convictions for offenses that were committed on or after January 1, 1999.

F. Aggravated domestic violence is a class 5 felony.

G. For the purposes of this section, "domestic violence offense" means an offense involving domestic violence as defined in section 13-3601.

13-3602. Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

A. A person may file a verified petition, as in civil actions, with a magistrate, justice of the peace or superior court judge for an order of protection for the purpose of restraining a person from committing any act included in domestic violence. If the person is a minor, the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise. The petition shall name the parent, guardian or custodian as the plaintiff and the minor is a specifically designated person for the purposes of subsection G of this section. If a person is either temporarily or permanently unable to request an order, a third party may request an order of protection on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. For the purposes of this section, notwithstanding the location of the plaintiff or defendant, any court in this state may issue or enforce an order of protection.

B. An order of protection shall not be granted:

1. Unless the party who requests the order files a written verified petition for an order.
2. Against a person who is less than twelve years of age unless the order is granted by the juvenile division of the superior court.
3. Against more than one defendant.

C. The petition shall state the:

1. Name of the plaintiff. The plaintiff's address shall be disclosed to the court for purposes of service. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the address be protected. On the plaintiff's request, the address shall not be listed on the petition. Whether the court issues an order of protection, the protected address shall be maintained in a separate document or automated data base and is not subject to release or disclosure by the court or any form of public access except as ordered by the court.

2. Name and address, if known, of the defendant.

3. Specific statement, including dates, of the domestic violence alleged.

4. Relationship between the parties pursuant to section 13-3601, subsection A and whether there is pending between the parties an action for annulment, legal separation or dissolution of marriage.

5. Name of the court in which any prior or pending proceeding or order was sought or issued concerning the conduct which is sought to be restrained.

6. Desired relief.

D. The amount and payment of filing fees for a petition filed under this section are established pursuant to sections 12-284, 22-281 and 22-404. Filing fees and fees for service of process may be deferred or waived under any rule, statute or other law applicable to civil actions. The court shall advise a plaintiff that the plaintiff may be eligible for the deferral or waiver of these fees at the time the plaintiff files the petition. The court shall not require the petitioner to perform community service as a condition of the waiver or deferral of filing fees and fees for service of process. A law enforcement agency or constable shall not require the advance payment of fees for service of process of orders of protection. If THE COURT DOES NOT WAIVE THE fees, the serving agency may assess the actual fees against the plaintiff. On request of the plaintiff, each order of protection issued by a municipal court shall be served by the police agency for that city if the defendant can be served within the city. If the defendant cannot be served within the city, the police agency in the city in which the defendant can be served shall serve the order. If the order cannot be served within a city, the sheriff shall serve the order. On request of the plaintiff, each order of protection issued by a justice of the peace shall be served by the constable OR SHERIFF for that jurisdiction if the defendant can be served within the jurisdiction. If the defendant cannot be served within that jurisdiction, the constable OR SHERIFF in the jurisdiction in which the defendant can be served shall serve the order. On request of the plaintiff, each order of protection issued by a superior court judge OR COMMISSIONER shall be served by the sheriff of the county. If the defendant cannot be served within that jurisdiction, the sheriff in the jurisdiction in which the defendant can be served shall serve the order. Each court shall provide, without charge, forms for purposes of this section for assisting parties without counsel. The court shall make reasonable efforts to provide to both parties an

appropriate information sheet on emergency and counseling services that are available in the local area.

E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff to determine whether the orders requested should issue without further hearing. The court shall issue an order of protection under subsection G of this section if the court determines that there is reasonable cause to believe any of the following:

1. The defendant may commit an act of domestic violence.
2. The defendant has committed an act of domestic violence within the past year or within a longer period of time if the court finds that good cause exists to consider a longer period.

F. For purposes of determining the period of time under subsection E, paragraph 2 of this section, any time that the defendant has been incarcerated or out of this state shall not be counted. If the court denies the requested relief, it may schedule a further hearing within ten days, with reasonable notice to the defendant.

G. If a court issues an order of protection, the court may do any of the following:

1. Enjoin the defendant from committing a violation of one or more of the offenses included in domestic violence.

2. Grant one party the use and exclusive possession of the parties' residence on a showing that there is reasonable cause to believe that physical harm may otherwise result. IF THE OTHER PARTY IS ACCOMPANIED BY A LAW ENFORCEMENT OFFICER, THE OTHER PARTY MAY RETURN TO THE RESIDENCE ON ONE OCCASION TO RETRIEVE BELONGINGS. A LAW ENFORCEMENT OFFICER IS NOT LIABLE FOR ANY ACT OR OMISSION IN THE GOOD FAITH EXERCISE OF THE OFFICER'S DUTIES UNDER THIS PARAGRAPH.

3. Restrain the defendant from contacting the plaintiff or other specifically designated persons and from coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons on a showing that there is reasonable cause to believe that physical harm may otherwise result.

4. If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated persons, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer any firearm owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order. If the defendant does not immediately transfer the firearm, the defendant shall transfer the firearm within twenty-four hours after service of the order.

5. If the order was issued after notice and a hearing at which the defendant had an opportunity to participate, require the defendant to complete a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department or any other program deemed appropriate by the court.

6. Grant relief that is necessary for the protection of the alleged victim and other specifically designated persons and that is proper under the circumstances.

H. The court shall not grant a mutual order of protection. If opposing parties separately file verified petitions for an order of protection, the courts after consultation between the judges involved may consolidate the petitions of the opposing parties for hearing. This does not prohibit a court from issuing cross orders of protection.

I. At any time during the period during which the order is in effect, a party under an order of protection or restrained from contacting the other party is entitled to one hearing on written request. A hearing requested by a party under an order of protection or restrained from contacting the other party shall be held within ten days from the date requested unless the court finds good cause to continue the hearing. If exclusive use of the home is awarded, the hearing shall be held within five days from the date requested. The hearing shall be held at the earliest possible time. An ex parte order issued under this section shall state on its face that the defendant is entitled to a hearing on written request and shall include the name and address of the judicial office where the request may be filed. After the hearing, the court may modify, quash or continue the order.

J. The order shall include the following statement:

Warning

This is an official court order. If you disobey this order, you may be arrested and prosecuted for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.

K. A copy of the petition and the order shall be served on the defendant within one year from the date the order is signed. An order of protection that is not served on the defendant within one year expires. An order is effective on the defendant on service of a copy of the order and petition. An order expires six months after service on the defendant. A modified order is effective upon service and expires six months after service of the initial order and petition. Beginning on January 1, 1999, an order expires one year after service on the defendant and a modified order expires one year after service of the initial order and petition.

L. Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the issuing court. This filing shall be completed in person, shall be MADE by FAX or shall be postmarked, if sent by mail, no later than the end of the seventh court business day after the date of service. If the filing is made by FAX, the original affidavit, acceptance or return of service shall be promptly filed with the court. Within twenty-four hours after the affidavit, acceptance or return of service has been filed, excluding weekends and holidays, the court from which the order

was issued shall register a copy of the order of protection and a copy of the affidavit of service of process or acceptance of service with the sheriff's office in the county in which the plaintiff resides. Registration of an order means that a copy of the order of protection and a copy of the affidavit or acceptance of service have been received by the sheriff's office. The sheriff shall maintain a central repository for orders of protection so that the existence and validity of the orders can be easily verified. The effectiveness of an order does not depend on its registration, and for enforcement purposes pursuant to section 13-2810, a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of six months from the date of service of the order on the defendant. Beginning on January 1, 1999, a copy of an order, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the injunction on the defendant. Any changes or modifications of the order are effective upon entry of an order of the court and shall be registered with the sheriff within twenty-four hours of the entry of the order, excluding weekends and holidays.

M. A peace officer may, with or without a warrant, arrest a person if the peace officer has probable cause to believe that the person has violated section 13-2810 by disobeying or resisting an order issued in any jurisdiction in this state pursuant to this section, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this section shall be referred to an appropriate law enforcement agency. The law enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an order of protection shall not be adjudicated by a municipal or justice court unless a complaint has been filed or other legal process has been requested by the prosecuting agency. The provisions for release under section 13-3883, subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made pursuant to this section. For purposes of this section, any court in this state has jurisdiction to enforce a valid order of protection that is issued in this state and that has been violated in any jurisdiction in this state.

N. A person arrested pursuant to subsection M of this section may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions which the court deems appropriate, including participation in any counseling programs available to the defendant.

O. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The superior court shall have exclusive jurisdiction to issue orders of protection in all cases if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. A municipal court or justice court shall not issue an order of protection if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. After issuance of an order of protection, if the municipal court or justice court determines that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties, the municipal court or justice court shall stop further proceedings in the action and

forward all papers, together with a certified copy of docket entries or any other record in the action, to the superior court where they shall be docketed in the pending superior court action and shall proceed as though the petition for an order of protection had been originally brought in the superior court. Notwithstanding any other law and unless prohibited by an order of the superior court, a municipal court or justice court may hold a hearing on ALL MATTERS RELATING TO its ex parte order of protection if the hearing was requested before receiving written notice of the pending superior court action. No order of protection shall be invalid or determined to be ineffective merely because it was issued by a lower court at a time when an action for maternity or paternity, annulment, legal separation or dissolution of marriage was pending in a higher court. After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any. An order entered by a justice court or municipal court after a hearing pursuant to this section may be appealed to the superior court as provided in title 22, chapter 2, article 4, section 22-425, subsection B and the superior court rules of civil appellate procedure without regard to an amount in controversy. For the purposes of this subsection, "pending" means, with respect to an action for annulment, legal separation or dissolution of marriage or for maternity or paternity, either that:

1. An action has been commenced but a final judgment, decree or order has not been entered.
2. A post-decree proceeding has been commenced but a judgment, decree or order finally determining the proceeding has not been entered.

P. A peace officer making an arrest pursuant to this section or section 13-3601 is not civilly or criminally liable for such arrest if the officer acts upon probable cause and without malice.

Q. In addition to persons authorized to serve process pursuant to rule 4(d) of the Arizona rules of civil procedure, a peace officer OR A CORRECTIONAL OFFICER AS DEFINED IN SECTION 41-1661 WHO IS ACTING IN THE OFFICER'S OFFICIAL CAPACITY may serve an order of protection issued pursuant to this section. Service of the order of protection has priority over other service of process that does not involve an immediate threat to the safety of a person.

R. A valid protection order that is related to domestic or family violence and that is issued by a court in another state, a court of a United States territory or a tribal court shall be accorded full faith and credit and shall be enforced as if it were issued in this state for as long as the order is effective in the issuing jurisdiction. For the purposes of this subsection:

1. A protection order includes any injunction or other order that is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with or physical proximity to another person. A protection order includes temporary and final orders other than support or child custody orders that are issued by civil and criminal courts if the order is obtained by the filing of an independent action or is a pendente lite order in another proceeding. The civil order shall be issued in response to a complaint, petition or motion that was filed by or on behalf of a person seeking protection.

2. A protection order is valid if the issuing court had jurisdiction over the parties and the matter under the laws of the issuing state, a United States territory or an Indian tribe and the person against whom the order was issued had reasonable notice and an opportunity to be heard. If the order is issued ex parte, the notice and opportunity to be heard shall be provided within the time required by the laws of the issuing state, a United States territory or an Indian tribe and within a reasonable time after the order was issued.

3. A mutual protection order that is issued against both the party who filed a petition or a complaint or otherwise filed a written pleading for protection against abuse and the person against whom the filing was made is not entitled to full faith and credit if either:

(a) The person against whom an initial order was sought has not filed a cross or counter petition or other written pleading seeking a protection order.

(b) The issuing court failed to make specific findings supporting the entitlement of both parties to be granted a protection order.

4. A peace officer may presume the validity of and rely on a copy of a protection order that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A peace officer may also rely on the statement of any person who is protected by the order that the order remains in effect. A peace officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

13-604.01. Dangerous crimes against children; sentences; definitions

A. A person who is at least eighteen years of age and who stands convicted of a dangerous crime against children in the first degree involving sexual assault of a minor who is twelve years of age or younger or sexual conduct with a minor who is twelve years of age or younger shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served thirty-five years or the sentence is commuted. This subsection does not apply to masturbatory contact.

B. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the first degree involving attempted first degree murder of a minor who is under twelve years of age or second degree murder of a minor who is under twelve years of age or sexual assault of a minor who is under twelve years of age or sexual conduct with a minor who is under twelve years of age may be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served thirty-five years or the sentence is commuted. If a life sentence is not imposed pursuant to this subsection, the person shall be sentenced to a presumptive term of imprisonment for twenty years.

C. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the first degree involving attempted first degree murder of a minor who is twelve, thirteen or fourteen years of age, second degree murder of a minor who is twelve, thirteen or fourteen years of age, sexual assault of a minor who is twelve, thirteen or fourteen years of age, taking a child for the purpose of prostitution, child prostitution, sexual conduct with a minor who is twelve, thirteen or fourteen years of age or continuous sexual abuse of a child or involving or using minors in drug offenses shall be sentenced to a presumptive term of imprisonment for twenty years. If the convicted person has been previously convicted of one predicate felony the person shall be sentenced to a presumptive term of imprisonment for thirty years.

D. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the first degree involving aggravated assault, molestation of a child, commercial sexual exploitation of a minor, sexual exploitation of a minor, child abuse or kidnapping shall be sentenced to a presumptive term of imprisonment for seventeen years. If the convicted person has been previously convicted of one predicate felony the person shall be sentenced to a presumptive term of imprisonment for twenty- eight years.

E. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children involving sexual abuse under section 13-1404 is guilty of a class 3 felony and shall be sentenced to a presumptive term of imprisonment for five years, and unless the person has previously been convicted of a predicate felony, the presumptive term may be increased or decreased by up to two and one-half years pursuant to section 13-702, subsections C, D and E. If the person is sentenced to a term of imprisonment the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. If the convicted person has been previously convicted of one predicate felony the person shall be sentenced to a presumptive term of imprisonment for fifteen years and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

F. The presumptive sentences prescribed in subsections B, C and D of this section or subsection E of this section if the person has previously been convicted of a predicate felony may be increased or decreased by up to seven years pursuant to the provisions of section 13-702, subsections B, C and D.

G. Except as provided in subsection E of this section, a person sentenced for a dangerous crime against children in the first degree pursuant to this section is not eligible for suspension of sentence, probation, pardon, or release from confinement on any basis except as specifically

authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served or commuted.

H. A person who stands convicted of any dangerous crime against children in the first degree pursuant to subsection C or D of this section having been previously convicted of two or more predicate felonies shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served not fewer than thirty-five years or the sentence is commuted.

I. Notwithstanding chapter 10 of this title, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the second degree pursuant to subsection C or D of this section is guilty of a class 3 felony and shall be sentenced to a presumptive term of imprisonment for ten years. The presumptive term may be increased or decreased by up to five years pursuant to section 13-702, subsections B, C and D. If the person is sentenced to a term of imprisonment the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. A person who is convicted of any dangerous crime against children in the second degree having been previously convicted of one or more predicate felonies is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

J. Section 13-604, subsections M and O apply to the determination of prior convictions.

K. The sentence imposed on a person by the court for a dangerous crime against children under subsection D of this section involving child molestation or sexual abuse pursuant to subsection E of this section may be served concurrently with other sentences if the offense involved only one victim. The sentence imposed on a person for any other dangerous crime against children in the first or second degree shall be consecutive to any other sentence imposed on the person at any time, including child molestation and sexual abuse of the same victim.

L. In this section:

1. "Dangerous crime against children" means any of the following THAT IS committed against a minor WHO IS under fifteen years of age:

(a) Second degree murder.

(b) Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.

(c) Sexual assault.

- (d) Molestation of a child.
- (e) Sexual conduct with a minor.
- (f) Commercial sexual exploitation of a minor.
- (g) Sexual exploitation of a minor.
- (h) Child abuse as prescribed in section 13-3623, subsection A, paragraph 1.
- (i) Kidnapping.
- (j) Sexual abuse.
- (k) Taking a child for the purpose of prostitution as defined in section 13-3206.
- (l) Child prostitution as defined in section 13-3212.
- (m) Involving or using minors in drug offenses.
- (n) Continuous sexual abuse of a child.
- (o) Attempted first degree murder.

A dangerous crime against children is in the first degree if it is a completed offense and is in the second degree if it is a preparatory offense, except attempted first degree murder is a dangerous crime against children in the first degree.

2. "Predicate felony" means any felony involving child abuse pursuant to section 13-3623, subsection A , paragraph 1, a sexual offense, conduct involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, or a dangerous crime against children in the first or second degree.

§ 13-1201. Endangerment; classification

A. A person commits endangerment by recklessly endangering another person with a substantial risk of imminent death or physical injury.

B. Endangerment involving a substantial risk of imminent death is a class 6 felony. In all other cases, it is a class 1 misdemeanor.

HISTORY: Last year in which legislation affected this section: 1977

§ 13-1202. Threatening or intimidating; classification

A. A person commits threatening or intimidating if such person threatens or intimidates by word or conduct:

1. To cause physical injury to another person or serious damage to the property of another; or
2. To cause, or in reckless disregard to causing, serious public inconvenience including, but not limited to, evacuation of a building, place of assembly, or transportation facility; or
3. To cause physical injury to another person or damage to the property of another in order to promote, further or assist in the interests of or to cause, induce or solicit another person to participate in a criminal street gang, a criminal syndicate or a racketeering enterprise.

B. Threatening or intimidating pursuant to subsection A, paragraph 1 or 2 is a class 1 misdemeanor. Threatening or intimidating pursuant to subsection A, paragraph 3 is a class 4 felony.

HISTORY: Last year in which legislation affected this section: 1994

§ 13-1203. Assault; classification

A. A person commits assault by:

1. Intentionally, knowingly or recklessly causing any physical injury to another person; or
2. Intentionally placing another person in reasonable apprehension of imminent physical injury; or
3. Knowingly touching another person with the intent to injure, insult or provoke such person.

B. Assault committed intentionally or knowingly pursuant to subsection A, paragraph 1 is a class 1 misdemeanor. Assault committed recklessly pursuant to subsection A, paragraph 1 or assault pursuant to subsection A, paragraph 2 is a class 2 misdemeanor. Assault committed pursuant to subsection A, paragraph 3 is a class 3 misdemeanor.

HISTORY: Last year in which legislation affected this section: 1978

§ 13-1204. Aggravated assault; classification

A. A person commits aggravated assault if the person commits assault as defined in section 13-1203 under any of the following circumstances:

1. If the person causes serious physical injury to another.
2. If the person uses a deadly weapon or dangerous instrument.
3. If the person commits the assault after entering the private home of another with the intent to commit the assault.
4. If the person is eighteen years of age or more and commits the assault upon a child the age of fifteen years or under.
5. If the person commits the assault knowing or having reason to know that the victim is a peace officer, or a person summoned and directed by the officer while engaged in the execution of any official duties.
6. If the person commits the assault knowing or having reason to know the victim is a teacher or other person employed by any school and the teacher or other employee is upon the grounds of a school or grounds adjacent to the school or is in any part of a building or vehicle used for school purposes, or any teacher or school nurse visiting a private home in the course of the teacher's or nurse's professional duties, or any teacher engaged in any authorized and organized classroom activity held on other than school grounds.
7. If the person meets both of the following conditions:
 - (a) Is imprisoned or otherwise subject to the custody of any of the following:
 - (i) The state department of corrections.
 - (ii) The department of juvenile corrections.
 - (iii) A law enforcement agency.
 - (iv) A county or city jail or an adult or juvenile detention facility of a city or county.
 - (v) Any other entity that is contracting with the state department of corrections, the department of juvenile corrections, a law enforcement agency, another state, any private correctional facility, a county, a city or the federal bureau of prisons or other federal agency that has responsibility for sentenced or un-sentenced prisoners.

(b) Commits an assault knowing or having reason to know that the victim is acting in an official capacity as an employee of any of the entities prescribed by subdivision (a) of this paragraph.

8. If the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired.

9. If the person commits the assault knowing or having reason to know that the victim is a fire fighter, fire investigator, fire inspector, emergency medical technician or paramedic engaged in the execution of any official duties, or a person summoned and directed by such individual while engaged in the execution of any official duties.

10. If the person commits the assault knowing or having reason to know that the victim is a licensed health care practitioner who is certified or licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the person's professional duties. The provisions of this paragraph do not apply if the person who commits the assault is seriously mentally ill, as defined in section 36-550 or is afflicted with Alzheimer's disease or related dementia.

11. If the person commits assault by any means of force which causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part, or a fracture of any body part.

12. If the person commits assault as prescribed by section 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an order of protection issued against the person pursuant to section 13-3602 or 13-3624.

B. Except pursuant to subsection C of this section, aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section is a class 3 felony except if the victim is under fifteen years of age in which case it is a class 2 felony punishable pursuant to section 13-604.01. Aggravated assault pursuant to subsection A, paragraph 11 of this section is a class 4 felony. Aggravated assault pursuant to subsection A, paragraph 7 of this section is a class 5 felony. Aggravated assault pursuant to subsection A, paragraph 3, 4, 5, 6, 8, 9, 10 or 12 of this section is a class 6 felony.

C. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 2 felony. Aggravated assault pursuant to subsection A, paragraph 11 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph 5 of this section resulting in any physical injury to a peace officer while the officer is engaged in the execution of any official duties is a class 5 felony.

HISTORY: Last year in which legislation affected this section: 1999 Laws 1999, Ch. 261, § 16.

§ 13-1302. Custodial interference; child born out of wedlock; defenses; classification

A. A person commits custodial interference if, knowing or having reason to know that the person has no legal right to do so, the person does one of the following:

1. Takes, entices or keeps from lawful custody any child, or any person who is incompetent, and who is entrusted by authority of law to the custody of another person or institution.
2. Before the entry of a court order determining custodial rights, takes, entices or withholds any child from the other parent denying that parent access to any child.
3. If the person is one of two persons who have joint legal custody of a child takes, entices or withholds from physical custody the child from the other custodian.
4. At the expiration of access rights outside this state, intentionally fails or refuses to return or impedes the return of a child to the lawful custodian.

B. If a child is born out of wedlock, the mother is the legal custodian of the child for the purposes of this section until paternity is established and custody or access is determined by a court.

C. It is a defense to a prosecution pursuant to subsection A, paragraph 2 if both of the following apply:

1. The defendant has begun the process to obtain an order of protection or files a petition for custody within a reasonable period of time and the order of protection or petition states the defendant's belief that the child was at risk if left with the other parent.
2. The defendant is the child's parent and has the right of custody and the defendant either:
 - (a) Has a good faith and reasonable belief that the taking, enticing or withholding is necessary to protect the child from immediate danger.
 - (b) Is a victim of domestic violence by the other parent and has a good faith and reasonable belief that the child will be in immediate danger if the child is left with the other parent.

D. A violation of this section is:

1. A class 3 felony if committed by a person other than the parent or agent of the parent or custodian or agent of the custodian.
2. Notwithstanding paragraph 3 of this subsection, a class 4 felony if the child or incompetent

person is taken, enticed or kept from lawful custody out of this state by the parent or agent of the parent or custodian or the agent of the custodian.

3. A class 6 felony if committed by a parent or agent of the parent or custodian or agent of the custodian.

4. A class 1 misdemeanor if the child or incompetent person is voluntarily returned without physical injury prior to arrest or the issuance of an arrest warrant.

HISTORY: Last year in which legislation affected this section: 1998 Laws 1998, Ch. 229, § 1.

§ 13-1303. Unlawful imprisonment; classification

A. A person commits unlawful imprisonment by knowingly restraining another person.

B. In any prosecution for unlawful imprisonment, it is a defense that:

1. The restraint was accomplished by a peace officer acting in good faith in the lawful performance of his duty; or

2. The defendant is a relative of the person restrained and the defendant's sole intent is to assume lawful custody of that person and the restraint was accomplished without physical injury.

C. Unlawful imprisonment is a class 6 felony unless the victim is released voluntarily by the defendant without physical injury in a safe place prior to arrest in which case it is a class 1 misdemeanor.

HISTORY: Last year in which legislation affected this section: 1978

§ 13-1304. Kidnapping; classification; consecutive sentence

A. A person commits kidnapping by knowingly restraining another person with the intent to:

1. Hold the victim for ransom, as a shield or hostage; or

2. Hold the victim for involuntary servitude; or

3. Inflict death, physical injury or a sexual offense on the victim, or to otherwise aid in the commission of a felony; or

4. Place the victim or a third person in reasonable apprehension of imminent physical injury to the victim or such third person.

5. Interfere with the performance of a governmental or political function.

6. Seize or exercise control over any airplane, train, bus, ship or other vehicle.

B. Kidnapping is a class 2 felony unless the victim is released voluntarily by the defendant without physical injury in a safe place prior to arrest and prior to accomplishing any of the further enumerated offenses in subsection A of this section in which case it is a class 4 felony. If the victim is released pursuant to an agreement with the state and without any physical injury, it is a class 3 felony. If the victim is under fifteen years of age kidnapping is a class 2 felony punishable pursuant to § 13-604.01. The sentence for kidnapping of a victim under fifteen years of age shall run consecutively to any other sentence imposed on the defendant and to any undischarged term of imprisonment of the defendant.

HISTORY: Last year in which legislation affected this section: 1985

§ 13-1502. Criminal trespass in the third degree; classification

A. A person commits criminal trespass in the third degree by:

1. Knowingly entering or remaining unlawfully on any real property after a reasonable request to leave by the owner or any other person having lawful control over such property, or reasonable notice prohibiting entry.

2. Knowingly entering or remaining unlawfully on the right-of-way for tracks, or the storage or switching yards or rolling stock of a railroad company.

B. Criminal trespass in the third degree is a class 3 misdemeanor.

HISTORY: Last year in which legislation affected this section: 1978

§ 13-1503. Criminal trespass in the second degree; classification

A. A person commits criminal trespass in the second degree by knowingly entering or remaining unlawfully in or on any nonresidential structure or in any fenced commercial yard.

B. Criminal trespass in the second degree is a class 2 misdemeanor.

HISTORY: Last year in which legislation affected this section: 1981

§ 13-1504. Criminal trespass in the first degree; classification

A. A person commits criminal trespass in the first degree by knowingly:

1. Entering or remaining unlawfully in or on a residential structure or in a fenced residential yard; or
2. Entering any residential yard and, without lawful authority, looking into the residential structure thereon in reckless disregard of infringing on the inhabitant's right of privacy.
3. Entering unlawfully on real property subject to a valid mineral claim or lease with the intent to hold, work, take or explore for minerals on such claim or lease.
4. Entering or remaining unlawfully on the property of another and burning, defacing, mutilating or otherwise desecrating a religious symbol or other religious property of another without the express permission of the owner of the property.

B. Criminal trespass in the first degree is a class 6 felony if it is committed by entering or remaining unlawfully in or on a residential structure or committed pursuant to subsection A, paragraph 4. Criminal trespass in the first degree is a class 1 misdemeanor if it is committed by entering or remaining unlawfully in a fenced residential yard or committed pursuant to subsection A, paragraph 2 or 3.

HISTORY: Last year in which legislation affected this section: 1982

§ 13-1602. Criminal damage; classification

A. A person commits criminal damage by recklessly:

1. Defacing or damaging property of another person; or
2. Tampering with property of another person so as substantially to impair its function or value; or
3. Tampering with the property of a utility.
4. Parking any vehicle in such a manner as to deprive livestock of access to the only reasonably available water.
5. Drawing or inscribing a message, slogan, sign or symbol that is made on any public or private building, structure or surface, except the ground, and that is made without permission of the owner.

B. Criminal damage is punished as follows:

1. Criminal damage is a class 4 felony if the person recklessly damages property of another in an amount of ten thousand dollars or more, or if the person recklessly causes impairment of the functioning of any utility.
2. Criminal damage is a class 5 felony if the person recklessly damages property

of another in an amount of two thousand dollars or more but less than ten thousand dollars.

3. Criminal damage is a class 6 felony if the person recklessly damages property of another in an amount of more than two hundred fifty dollars but less than two thousand dollars.

4. In all other cases criminal damage is a class 2 misdemeanor.

§ 13-2810. Interfering with judicial proceedings; classification

A. A person commits interfering with judicial proceedings if such person knowingly:

1. Engages in disorderly, disrespectful or insolent behavior during the session of a court which directly tends to interrupt its proceedings or impairs the respect due to its authority; or

2. Disobeys or resists the lawful order, process or other mandate of a court; or

3. Refuses to be sworn or affirmed as a witness in any court proceeding; or

4. Publishes a false or grossly inaccurate report of a court proceeding; or

5. Refuses to serve as a juror unless exempted by law; or

6. Fails inexcusably to attend a trial at which he has been chosen to serve as a juror.

B. Interfering with judicial proceedings is a class 1 misdemeanor.

HISTORY: Last year in which legislation affected this section: 1977

§ 13-2904. Disorderly conduct; classification

A. A person commits disorderly conduct if, with intent to disturb the peace or quiet of a neighborhood, family or person, or with knowledge of doing so, such person:

1. Engages in fighting, violent or seriously disruptive behavior; or

2. Makes unreasonable noise; or

3. Uses abusive or offensive language or gestures to any person present in a manner likely to provoke immediate physical retaliation by such person; or

4. Makes any protracted commotion, utterance or display with the intent to prevent the transaction of the business of a lawful meeting, gathering or procession; or

5. Refuses to obey a lawful order to disperse issued to maintain public safety in dangerous proximity to a fire, a hazard or any other emergency; or

6. Recklessly handles, displays or discharges a deadly weapon or dangerous instrument.

B. Disorderly conduct under subsection A, paragraph 6 is a class 6 felony. Disorderly conduct under subsection A, paragraph 1, 2, 3, 4 or 5 is a class 1 misdemeanor.

HISTORY: Last year in which legislation affected this section: 1994

§ 13-2916. Use of telephone to terrify, intimidate, threaten, harass, annoy or offend; classification

A. It is unlawful for any person, with intent to terrify, intimidate, threaten, harass, annoy or offend, to use a telephone and use any obscene, lewd or profane language or suggest any lewd or lascivious act, or threaten to inflict physical harm to the person or property of any person. It is also unlawful to otherwise disturb by repeated anonymous telephone calls the peace, quiet or right of privacy of any person at the place where the telephone call or calls were received.

B. Any offense committed by use of a telephone as set forth in this section is deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.

C. Any person who violates this section is guilty of a class 1 misdemeanor.

HISTORY: Last year in which legislation affected this section: 1998 Laws 1998, Ch. 289, § 10.

§ 13-2921. Harassment; classification; definition

A. A person commits harassment if, with intent to harass or with knowledge that the person is harassing another person, the person:

1. Anonymously or otherwise communicates or causes a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic or written means in a manner that harasses.

2. Continues to follow another person in or about a public place for no legitimate purpose after being asked to desist.

3. Repeatedly commits an act or acts that harass another person.

4. Surveils or causes another person to surveil a person for no legitimate purpose.

5. On more than one occasion makes a false report to a law enforcement, credit or social service agency.

6. Interferes with the delivery of any public or regulated utility to a person.

B. A person commits harassment against a public officer or employee if the person, with intent to harass, files a nonconsensual lien against any public officer or employee that is not accompanied by an order or a judgment from a court of competent jurisdiction authorizing the filing of the lien or is not issued by a governmental entity or political subdivision or agency pursuant to its statutory authority, a validly licensed utility or water delivery company, a mechanics' lien claimant or an entity created under covenants, conditions, restrictions or declarations affecting real property.

C. Harassment under subsection A is a class 1 misdemeanor. Harassment under subsection B is a class 5 felony.

D. This section does not apply to an otherwise lawful demonstration, assembly or picketing.

E. For purposes of this section, "harassment" means conduct directed at a specific person which would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person.

HISTORY: Last year in which legislation affected this section: 1998 Laws 1998, Ch. 37, § 2.

§ 13-2921.01. Aggravated harassment; classification; definition

A. A person commits aggravated harassment if the person commits harassment as provided in section 13-2921 and any of the following applies:

1. A court has issued an order of protection or an injunction against harassment against the person and in favor of the victim of harassment and the order or injunction has been served and is still valid.
2. The person has previously been convicted of an offense included in section 13-3601.

B. The victim of any previous offense shall be the same as in the present offense.

C. A person who violates subsection A, paragraph 1 of this section is guilty of a class 6 felony. A person who commits a second or subsequent violation of subsection A, paragraph 1 of this section is guilty of a class 5 felony. A person who violates subsection A, paragraph 2 of this section is guilty of a class 5 felony.

D. For the purposes of this section, "convicted" means a person who was convicted of an offense included in section 13-3601, who had judgment deferred pursuant to section 13-3601, subsection M or who was adjudicated delinquent for conduct that would constitute a historical prior felony conviction if the juvenile had been tried as an adult for an offense included in section 13-3601.

HISTORY: Last year in which legislation affected this section: 1998 Laws 1998, Ch. 37, § 3.

§ 13-2923. Stalking; classification; definitions

A. A person commits stalking if the person intentionally or knowingly engages in a course of conduct that is directed toward another person and if that conduct either:

1. Would cause a reasonable person to fear for the person's safety or the safety of that person's immediate family member and that person in fact fears for their safety or the safety of that person's immediate family member.

2. Would cause a reasonable person to fear physical injury to or death of that person or that person's immediate family member and that person in fact fears physical injury to or death of that person or that person's immediate family member.

B. Stalking under subsection A, paragraph 1 of this section is a class 5 felony. Stalking under subsection A, paragraph 2 is a class 3 felony.

C. For the purposes of this section:

1. "Course of conduct" means maintaining visual or physical proximity to a specific person or directing verbal, written or other threats, whether express or implied, to a specific person on two or more occasions over a period of time, however short, but does not include constitutionally protected activity.

2. "Immediate family member" means a spouse, parent, child or sibling or any other person who regularly resides in a person's household or resided in a person's household within the past six months.

HISTORY: Last year in which legislation affected this section: 1998 Laws 1998, Ch. 37, § 4.

§13-3623. Child or vulnerable adult abuse; emotional abuse; classification; exception; definitions

A. Under circumstances likely to produce death or serious physical injury, any person who causes a child or vulnerable adult to suffer physical injury or, having the care or custody of A child or vulnerable adult, who causes or permits the person or health of THE child or vulnerable adult to be injured or who causes or permits A child or vulnerable adult to be placed in a situation where THE person or health OF THE CHILD OR VULNERABLE ADULT is endangered is guilty of an offense as follows:

1. If done intentionally or knowingly, the offense is a class 2 felony and if the victim is under fifteen years of age it is punishable pursuant to section 13-604.01.

2. If done recklessly, the offense is a class 3 felony.

3. If done with criminal negligence, the offense is a class 4 felony.

B. Under circumstances other than those likely to produce death or serious physical injury to a child or vulnerable adult, any person who causes a child or vulnerable adult to suffer physical injury or abuse or, having the care or custody of A child or vulnerable adult, who causes or permits the person or health of THE child or vulnerable adult to be injured or who causes or permits. A child or vulnerable adult to be placed in a situation were THE person or health OF THE CHILD OR VULNERABLE ADULT is endangered is guilty of an offense as follows:

1. If done intentionally or knowingly, the offense is a class 4 felony.

2. If done recklessly, the offense is a class 5 felony.

3. If done with criminal negligence, the offense is a class 6 felony.

C. FOR THE PURPOSES OF SUBSECTIONS A AND B OF THIS SECTION, THE TERMS ENDANGERED AND ABUSE INCLUDE BUT ARE NOT LIMITED TO CIRCUMSTANCES IN WHICH A CHILD OR VULNERABLE ADULT IS PERMITTED TO ENTER OR REMAIN IN ANY STRUCTURE OR VEHICLE IN WHICH VOLATILE, TOXIC OR FLAMMABLE CHEMICALS ARE FOUND OR EQUIPMENT IS POSSESSED BY ANY PERSON FOR THE PURPOSE OF MANUFACTURING A DANGEROUS DRUG IN VIOLATION OF SECTION 13-3407, SUBSECTION A, PARAGRAPH 4.

D. A person who intentionally or knowingly engages in emotional abuse of a vulnerable adult who is a patient or resident in any setting in which health care, health-related services or assistance with one or more of the activities of daily living is provided or, having the care or custody of A vulnerable adult, who intentionally or knowingly subjects or permits the vulnerable adult to be subjected to emotional abuse is guilty of a class 6 felony.

E. This section does not apply to:

1. A health care provider as defined in section 36-3201 who permits a patient to die or the patient's condition to deteriorate by not providing health care if that patient refuses that care directly or indirectly through a health care directive as defined in section 36-3201, through a surrogate pursuant to section 36-3231 or through a court appointed guardian as provided for in title 14, chapter 5, article 3.

2. A vulnerable adult who is being furnished spiritual treatment through prayer alone and who would not otherwise be considered to be abused, neglected or endangered if medical treatment were being furnished.

F. FOR THE PURPOSES OF THIS SECTION:

1. "ABUSE", WHEN USED IN REFERENCE TO A CHILD, MEANS ABUSE AS DEFINED IN SECTION 8-201, EXCEPT FOR THOSE ACTS IN THE DEFINITION THAT ARE DECLARED UNLAWFUL BY ANOTHER STATUTE OF THIS TITLE AND, WHEN USED IN REFERENCE TO A VULNERABLE ADULT, MEANS:

(A) INTENTIONAL INFLICTION OF PHYSICAL HARM.

(B) INJURY CAUSED BY CRIMINALLY NEGLIGENT ACTS OR OMISSIONS.

(C) UNLAWFUL IMPRISONMENT, AS DESCRIBED IN SECTION 13-1303.

(D) SEXUAL ABUSE OR SEXUAL ASSAULT.

2. "CHILD" MEANS AN INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE.

3. "EMOTIONAL ABUSE" MEANS A PATTERN OF RIDICULING OR DEMEANING A VULNERABLE ADULT, MAKING DEROGATORY REMARKS TO A VULNERABLE ADULT, VERBALLY HARASSING A VULNERABLE ADULT OR THREATENING TO INFLICT PHYSICAL OR EMOTIONAL HARM ON A VULNERABLE ADULT.

4. "PHYSICAL INJURY" MEANS THE IMPAIRMENT OF PHYSICAL CONDITION AND INCLUDES ANY SKIN BRUISING, PRESSURE SORES, BLEEDING, FAILURE TO THRIVE, MALNUTRITION, DEHYDRATION, BURNS, FRACTURE OF ANY BONE, SUBDURAL HEMATOMA, SOFT TISSUE SWELLING, INJURY TO ANY INTERNAL ORGAN OR ANY PHYSICAL CONDITION THAT IMPERILS HEALTH OR WELFARE.

5. "SERIOUS PHYSICAL INJURY" MEANS PHYSICAL INJURY THAT CREATES A REASONABLE RISK OF DEATH OR THAT CAUSES SERIOUS OR PERMANENT DISFIGUREMENT, SERIOUS IMPAIRMENT OF HEALTH OR LOSS OR PROTRACTED IMPAIRMENT OF THE FUNCTION OF ANY BODILY ORGAN OR LIMB.

6. "VULNERABLE ADULT" MEANS AN INDIVIDUAL WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND WHO IS UNABLE TO PROTECT HIMSELF FROM ABUSE, NEGLECT OR EXPLOITATION BY OTHERS BECAUSE OF A MENTAL OR PHYSICAL IMPAIRMENT.

§ 8-201. Definitions

In this title, unless the context otherwise requires:

1. "Abandoned" means the failure of the parent to provide reasonable support and to maintain regular contact with the child, including providing normal supervision. Abandoned includes a judicial finding that a parent has made only minimal efforts to support and communicate with the child. Failure

to maintain a normal parental relationship with the child without just cause for a period of six months shall constitute prima facie evidence of abandonment.

2. "Abuse" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to section 8-821 and which is caused by the acts or omissions of an individual having care, custody and control of a child. Abuse shall include inflicting or allowing sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest pursuant to section 13-3608 or child prostitution pursuant to section 13-3212.

3. "Adult" means a person who is eighteen years of age or older.

4. "Adult court" means the appropriate justice court, municipal court or criminal division of the superior court that has jurisdiction to hear proceedings concerning offenses committed by juveniles as provided in sections 8-327 and 13-501.

5. "Award" or "commit" means to assign legal custody.

6. "Child", "youth" or "juvenile" means an individual who is under the age of eighteen years.

7. "Complaint" means a written statement of the essential facts constituting a public offense that is made on an oath before a judge or commissioner of the superior court or an authorized juvenile hearing officer or that is made pursuant to section 13-3903.

8. "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of the juvenile court.

9. "Delinquency hearing" means a proceeding in the juvenile court to determine whether a juvenile has committed a specific delinquent act as set forth in a petition.

10. "Delinquent act" means an act by a juvenile which if committed by an adult would be a criminal offense or a petty offense, a violation of any law of this state, or of another state if the act occurred in that state, or a law of the United States, or a violation of any law which can only be violated by a minor and which has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime. Delinquent act does not include an offense under section 13-501, subsection A or B if the offense is filed in adult court. Any juvenile who is prosecuted as an adult or who is remanded for prosecution as an adult shall not be adjudicated as a delinquent juvenile for the same offense.

11. "Delinquent juvenile" means a child who is adjudicated to have committed a delinquent act.

12. "Department" means the department of economic security.

13. "Dependent child":

(a) Means a child who is adjudicated to be:

(i) In need of proper and effective parental care and control and who has no parent or guardian, or one who has no parent or guardian willing to exercise or capable of exercising such care and control.

(ii) Destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care, or whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, a guardian, or any other person having custody or care of the child.

(iii) Under the age of eight years and who is found to have committed an act that would result in adjudication as a delinquent juvenile or incorrigible child if committed by an older juvenile or child.

(iv) Incompetent or not restorable to competency and who is alleged to have committed a serious offense as defined in section 13-604.

(b) Does not include a child who in good faith is being furnished Christian Science treatment by a duly accredited practitioner if none of the circumstances described in subdivision (a) of this paragraph exists.

14. "Detention" means the temporary confinement of a juvenile who requires secure care in a physically restricting facility that is completely surrounded by a locked and physically secure barrier with restricted ingress and egress for the protection of the juvenile or the community pending court disposition or as a condition of probation.

15. "Incorrigible child" means a child who:

(a) Is adjudicated as a child who refuses to obey the reasonable and proper orders or directions of a parent, guardian or custodian and who is beyond the control of such person.

(b) Is habitually truant from school as defined in section 15-803, subsection C.

(c) Is a runaway from the child's home or parent, guardian or custodian.

(d) Habitually behaves in such a manner as to injure or endanger the morals or health of self or others.

(e) Commits any act constituting an offense which can only be committed by a minor and which is not designated as a delinquent act.

(f) Fails to obey any lawful order of a court of competent jurisdiction given in a non-criminal action.

16. "Independent living program" includes a residential program with supervision of less than twenty-four hours a day.

17. "Juvenile court" means the juvenile division of the superior court when exercising its jurisdiction over children in any proceeding relating to delinquency, dependency or incorrigibility.

18. "Law enforcement officer" means a peace officer, sheriff, deputy sheriff, municipal police officer or constable.

19. "Medical director of a mental health agency" means a psychiatrist, or licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency, or a psychiatrist designated by the governing body to act for the director. The term includes the superintendent of the state hospital.

20. "Mental health agency" means any private or public facility which is licensed by this state as a mental health treatment agency, a psychiatric hospital, a psychiatric unit of a general hospital or a residential treatment center for emotionally disturbed children and which utilizes secure settings or mechanical restraints.

21. "Neglect" or "neglected" means the inability or unwillingness of a parent, guardian or custodian of a child to provide that child with supervision, food, clothing, shelter or medical care if that inability or unwillingness causes substantial risk of harm to the child's health or welfare, except if the inability of a parent or guardian to provide services to meet the needs of a child with a disability or chronic illness is solely the result of the unavailability of reasonable services.

22. "Petition" means a written statement of the essential facts that allege delinquency, incorrigibility or dependency.

23. "Protective supervision" means supervision ordered by the juvenile court of children who are found to be dependent or incorrigible.

24. "Referral" means a report that is submitted to the juvenile court and that alleges that a child is dependent or incorrigible or that a juvenile has committed a delinquent or criminal act.

25. "Secure care" means confinement in a facility that is completely surrounded by a locked and physically secure barrier with restricted ingress and egress.

26. "Shelter care" means the temporary care of a child in any public or private facility or home that is licensed by this state and that offers a physically non-secure environment that is characterized by the absence of physically restricting construction or hardware and that provides the child access to the surrounding community.

HISTORY: Last year in which legislation affected this section: 1999 Laws 1997 (2nd sp. sess.), Ch. 4, §§1, 2; Laws 1999, Ch. 36, § 4.

§ 12-1809. Injunction against harassment; petition; venue; fees; notices; enforcement; definition

A. A person may file a verified petition with a magistrate, justice of the peace or superior court judge for an injunction prohibiting harassment. If the person is a minor, the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise. The petition shall name the parent, guardian or custodian as the plaintiff, and the minor is a specifically designated person for the purposes of subsection F of this section. If a person is either temporarily or permanently unable to request an injunction, a third party may request an injunction on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. Notwithstanding the location of the plaintiff or defendant, any court in this state may issue or enforce an injunction against harassment.

B. An injunction against harassment shall not be granted:

1. Unless the party who requests the injunction files a written verified petition for injunction.
2. Against a person who is less than twelve years of age unless the injunction is granted by the juvenile division of the superior court.
3. Against more than one defendant.

C. The petition shall state all of the following:

1. The name of the plaintiff. The plaintiff's address shall be disclosed to the court for purposes of service. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the address be protected. On the plaintiff's request, the address shall not be listed on the petition. Whether the court issues an injunction against harassment, the protected address shall be maintained in a separate document or automated data base and is not subject to release or disclosure by the court or any form of public access except as ordered by the court.
2. The name and address, if known, of the defendant.
3. A specific statement showing events and dates of the acts constituting the alleged harassment.
4. The name of the court in which there was or is any prior or pending proceeding or order concerning the conduct which is sought to be restrained.
5. The relief requested.

D. The filing fee for a petition filed under this section is established pursuant to sections 12-284, 22-281 and 22-404. Filing fees and fees for service of process may be deferred or waived under

any rule or law applicable to civil actions. The court shall advise a plaintiff that the plaintiff may be eligible for the deferral or waiver of these fees at the time the plaintiff files a petition. THE COURT SHALL NOT REQUIRE THE PETITIONER TO PERFORM COMMUNITY SERVICE AS A CONDITION OF THE WAIVER OR DEFERRAL OF FILING FEES AND FEES FOR SERVICE OF PROCESS. A LAW ENFORCEMENT AGENCY OR CONSTABLE SHALL NOT REQUIRE THE ADVANCE PAYMENT OF FEES FOR SERVICE OF PROCESS OF INJUNCTIONS AGAINST HARASSMENT. IF THE COURT DOES NOT WAIVE THE FEES, THE SERVING AGENCY MAY ASSESS THE ACTUAL FEES AGAINST THE PLAINTIFF. ON REQUEST OF THE PLAINTIFF, EACH INJUNCTION AGAINST HARASSMENT ISSUED BY A MUNICIPAL COURT MAY BE SERVED BY THE POLICE AGENCY FOR THAT CITY IF THE DEFENDANT CAN BE SERVED WITHIN THE CITY. IF THE DEFENDANT CANNOT BE SERVED WITHIN THE CITY, THE POLICE AGENCY IN THE CITY IN WHICH THE DEFENDANT CAN BE SERVED MAY SERVE THE ORDER. ON REQUEST OF THE PLAINTIFF, EACH INJUNCTION AGAINST HARASSMENT ISSUED BY A JUSTICE OF THE PEACE SHALL BE SERVED BY THE CONSTABLE FOR THAT JURISDICTION IF THE DEFENDANT CAN BE SERVED WITHIN THE JURISDICTION. IF THE DEFENDANT CANNOT BE SERVED WITHIN THAT JURISDICTION, THE CONSTABLE IN THE JURISDICTION IN WHICH THE DEFENDANT CAN BE SERVED SHALL SERVE THE ORDER. ON REQUEST OF THE PLAINTIFF, EACH INJUNCTION AGAINST HARASSMENT ISSUED BY A SUPERIOR COURT JUDGE OR COMMISSIONER MAY BE SERVED BY THE SHERIFF OF THE COUNTY. IF THE DEFENDANT CANNOT BE SERVED WITHIN THAT JURISDICTION, THE SHERIFF IN THE JURISDICTION IN WHICH THE DEFENDANT CAN BE SERVED MAY SERVE THE ORDER. The court shall provide, without charge, forms for purposes of this section for assisting parties without counsel.

E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff to determine whether the injunction requested should issue without A further hearing. Rules 65(a)(1) and 65(e) of the Arizona rules of civil procedure DO not APPLY to injunctions requested pursuant to this section. If the court finds reasonable evidence of harassment of the plaintiff by the defendant during the year preceding the filing of the petition or that good cause exists to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition and the court finds specific facts attesting to the plaintiff's efforts to give notice to the defendant or reasons supporting the plaintiff's claim that notice should not be given, the court shall issue an injunction as provided for in subsection F of this section. If the court denies the requested relief, it may schedule a further hearing within ten days with reasonable notice to the defendant. For purposes of determining the one year period, any time that the defendant has been incarcerated or out of this state shall not be counted.

F. If the court issues an injunction, the court may do any of the following:

1. Enjoin the defendant from committing a violation of one or more acts of harassment.

2. Restrain the defendant from contacting the plaintiff or other specifically designated persons and from coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons.

3. Grant relief necessary for the protection of the alleged victim and other specifically designated persons proper under the circumstances.

G. The court shall not grant a mutual injunction against harassment. If opposing parties separately file verified petitions for an injunction against harassment, the courts after consultation between the judicial officers involved may consolidate the petitions of the opposing parties for hearing. This does not prohibit a court from issuing cross injunctions against harassment.

H. At any time during the period during which the injunction is in effect, the defendant is entitled to one hearing on written request. A hearing requested by a defendant shall be held within ten days from the date requested unless the court finds compelling reasons to continue the hearing. The hearing shall be held at the earliest possible time. An ex parte injunction issued under this section shall state on its face that the defendant is entitled to a hearing on written request and shall include the name and address of the judicial office where the request may be filed. After the hearing, the court may modify, quash or continue the injunction.

I. The injunction shall include the following statement:

Warning

This is an official court order. If you disobey this order, you may be arrested and prosecuted for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.

J. A copy of the petition and the injunction shall be served on the defendant within one year from the date the injunction is signed. An injunction that is not served on the defendant within one year expires. The injunction is effective on the defendant on service of a copy of the injunction and petition and expires six months after service on the defendant. A modified injunction is effective upon service and expires six months after service of the initial injunction and petition. Beginning on January 1, 1999, an injunction expires one year after service on the defendant and a modified injunction expires one year after service of the initial injunction and petition.

K. Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the issuing court. This filing shall be completed in person, SHALL BE MADE by FAX or SHALL be postmarked, if sent by mail, no later than the end of the seventh court business day after the date of service. If the filing is made by FAX, the original affidavit, acceptance or return of service shall be promptly filed with the court. Within twenty-four hours after the affidavit, acceptance or return of service has been filed, excluding weekends and holidays, the court from which the injunction was issued shall register a copy of the injunction and a copy of the affidavit of service of process or acceptance of service with the sheriff's office in the county in which the plaintiff resides. Registration of an injunction means that a copy of the injunction and a copy of the affidavit or acceptance of service have been received by the

sheriff's office. The sheriff shall maintain a central repository for injunctions so that the existence and validity of the injunctions can be easily verified. The effectiveness of an injunction does not depend on its registration, and for enforcement purposes pursuant to section 13-2810, a copy of an injunction, whether or not registered, is presumed to be a valid existing order of the court for a period of six months from the date of service of the injunction on the defendant. Beginning on January 1, 1999, a copy of an injunction, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the injunction on the defendant. Any changes or modifications of the injunction are effective on entry by the court and shall be registered with the sheriff within twenty-four hours of the entry, excluding weekends and holidays.

L. A peace officer may, with or without a warrant, arrest a person if the peace officer has probable cause to believe that the person has violated section 13-2810 by disobeying or resisting an injunction issued pursuant to this section, whether or not the violation occurred in the presence of the officer. The provisions for release under section 13-3903 do not apply to an arrest made pursuant to this subsection. A person arrested pursuant to this subsection may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions which the court deems appropriate, including participation in any counseling programs available to the defendant.

M. If a peace officer responds to a call alleging that harassment has been or may be committed, the officer shall inform in writing any alleged or potential victim of the procedures and resources available for the protection of the victim including:

1. An injunction pursuant to this section.
2. The emergency telephone number for the local police agency.
3. Telephone numbers for emergency services in the local community.

N. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The municipal court and the justice court may hear and decide all matters arising pursuant to this section. After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any. An order entered by a justice court or municipal court after a hearing pursuant to this section may be appealed to the superior court as provided in title 22, chapter 2, article 4, section 22-425, subsection B and the superior court rules of civil appellate procedure without regard to an amount in controversy.

O. A peace officer making an arrest pursuant to this section is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice. A peace officer is not civilly liable for noncompliance with subsection M of this section.

P. This section does not apply to preliminary injunctions issued pursuant to an action for dissolution of marriage or legal separation or for protective orders against domestic violence.

Q. In addition to the persons who are authorized to serve process pursuant to rule 4(d), Arizona rules of civil procedure, a peace officer OR A CORRECTIONAL OFFICER AS DEFINED IN SECTION 41-1661 WHO IS ACTING IN THE OFFICER'S OFFICIAL CAPACITY may serve an injunction against harassment that is issued pursuant to this section.

R. In this section, "harassment" means a series of acts over any period of time that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose.

B) RAPE STATUTES (ABBREVIATED)

ARS §13-1404, intentional or knowing **sexual contact** with a person age **15 or older w/o consent**; or under age 15 if the contact involves the female breasts. SEXUAL ABUSE

ARS §13-1405 intentional or knowing **sexual intercourse or oral** sexual contact with a person **under age 18**. SEXUAL CONDUCT W/A MINOR

ARS §13-1406 intentional or knowing **sexual intercourse or oral** sexual contact with any person **without consent**. SEXUAL ASSAULT.

ARS §13-1406.01 intentional or knowing sexual intercourse or oral sexual contact with a spouse without consent **by immediate or threatened use of force**. SEXUAL ASSAULT OF A SPOUSE.

C) VICTIM BILL OF RIGHTS

AZ CONST Art. 2 § 2.1

S 2.1. Victims' Bill of Rights

Section 2.1. (A) To preserve and protect victims' rights to justice and due process, a victim of crime has a right:

1. To be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process.
2. To be informed, upon request, when the accused or convicted person is released from custody or has escaped.

3. To be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present.
4. To be heard at any proceeding involving a post-arrest release decision, a negotiated plea, and sentencing.
5. To refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney, or other person acting on behalf of the defendant.
6. To confer with the prosecution, after the crime against the victim has been charged, before trial or before any disposition of the case and to be informed of the disposition.
7. To read pre-sentence reports relating to the crime against the victim when they are available to the defendant.
8. To receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury.
9. To be heard at any proceeding when any post-conviction release from confinement is being considered.
10. To a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence.
11. To have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and to have these rules be subject to amendment or repeal by the legislature to ensure the protection of these rights.
12. To be informed of victims' constitutional rights.

(B) A victim's exercise of any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.

(C) "Victim" means a person against whom the criminal offense has been committed or, if the person is killed or incapacitated, the person's spouse, parent, child or other lawful representative, except if the person is in custody for an offense or is the accused.

(D) The legislature, or the people by initiative or referendum, have the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.

(E) The enumeration in the constitution of certain rights for victims shall not be construed to deny or disparage others granted by the legislature or retained by victims.

D) CRIMINAL AFFIRMATIVE DEFENSE PROVISIONS

§ 13-415. Justification; domestic violence

If there have been past acts of domestic violence as defined in section 13-3601, subsection A against the defendant by the victim, the state of mind of a reasonable person under sections 13-404, 13-405 and 13-406 shall be determined from the perspective of a reasonable person who has been a victim of those past acts of domestic violence.

§ 13-404. Justification; self-defense

A. Except as provided in subsection B of this section, a person is justified in threatening or using physical force against another when and to the extent a reasonable person would believe that physical force is immediately necessary to protect himself against the other's use or attempted use of unlawful physical force.

B. The threat or use of physical force against another is not justified:

1. In response to verbal provocation alone; or

2. To resist an arrest that the person knows or should know is being made by a peace officer or by a person acting in a peace officer's presence and at his direction, whether the arrest is lawful or unlawful, unless the physical force used by the peace officer exceeds that allowed by law; or

3. If the person provoked the other's use or attempted use of unlawful physical force, unless:

(a) The person withdraws from the encounter or clearly communicates to the other his intent to do so reasonably believing he cannot safely withdraw from the encounter; and

(b) The other nevertheless continues or attempts to use unlawful physical force against the person.

HISTORY: Last year in which legislation affected this section: 1977

§ 13-405. Justification; use of deadly physical force

A person is justified in threatening or using deadly physical force against another:

1. If such person would be justified in threatening or using physical force against the other under § 13-404, and

2. When and to the degree a reasonable person would believe that deadly physical force is immediately necessary to protect himself against the other's use or attempted use of unlawful deadly physical force.

HISTORY: Last year in which legislation affected this section: 1977

§ 13-406. Justification; defense of a third person

A person is justified in threatening or using physical force or deadly physical force against another to protect a third person if:

1. Under the circumstances as a reasonable person would believe them to be, such person would be justified under § 13-404 or 13-405 in threatening or using physical force or deadly physical force to protect himself against the unlawful physical force or deadly physical force a reasonable person would believe is threatening the third person he seeks to protect; and

2. A reasonable person would believe that such person's intervention is immediately necessary to protect the third person.

HISTORY: Last year in which legislation affected this section: 1977

E) CRIMINAL PUNISHMENT AND SENTENCING

§ 13-602. Designation of offenses

A. The particular classification of each felony defined in this title is expressly designated in the section or chapter defining it. Any offense defined outside this title which is declared by law to be a felony without either specification of the classification or of the penalty is a class 5 felony.

B. The particular classification of each misdemeanor defined in this title is expressly designated in the section or chapter defining it. Any offense defined outside this title which is declared by law to be a misdemeanor without either specification of the classification or of the penalty is a class 2 misdemeanor.

C. Every petty offense in this title is expressly designated as such. Any offense defined outside this title without either designation as a felony or misdemeanor or specification of the classification or the penalty is a petty offense.

D. Any offense which is declared by law to be a felony, misdemeanor or petty offense without specification of the classification of such offense is punishable according to the penalty prescribed for such offense.

E. Any offense defined within or outside this title without designation as a felony, misdemeanor or petty offense is punishable according to the penalty prescribed for such offense.

F. Any offense defined outside this title with a specification of the classification of such offense is punishable according to the provisions of this title.

G. Any petty offense, class 3 misdemeanor or class 2 misdemeanor, except a violation of title 28, is deemed a minor non-traffic offense for the limited purpose of armed forces recruitment.

HISTORY: Last year in which legislation affected this section: 1983

§ 13-707. Sentence of imprisonment for misdemeanor

A. A sentence of imprisonment for a misdemeanor shall be for a definite term to be served other than a place within custody of the state department of corrections. The court shall fix the term of imprisonment within the following maximum limitations:

1. For a class 1 misdemeanor, six months.
2. For a class 2 misdemeanor, four months.
3. For a class 3 misdemeanor, thirty days.

B. The court may, pursuant to this section, direct that the person sentenced shall not be released on any basis until the sentence imposed by the court has been served.

HISTORY: Last year in which legislation affected this section: 1987

§ 13-802. Fines for misdemeanors

A. A sentence to pay a fine for a class 1 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than two thousand five hundred dollars.

B. A sentence to pay a fine for a class 2 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than seven hundred fifty dollars.

C. A sentence to pay a fine for a class 3 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than five hundred dollars.

D. A sentence to pay a fine for a petty offense shall be a sentence to pay an amount, fixed by the court, of not more than three hundred dollars.

E. A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien in like manner as a judgment for money rendered in a civil action.

F. This section does not apply to an enterprise.

HISTORY: Last year in which legislation affected this section: 1989

§ 13-711. Offenses involving domestic violence; sentencing

If a person is convicted of an offense involving domestic violence and the victim was pregnant at the time of the commission of the offense, at the time of sentencing the court shall take into consideration the fact that the victim was pregnant and may increase the sentence.

HISTORY: Last year in which legislation affected this section: 1998 Laws 1998, Ch. 303, § 2.

§ 13-701. Sentence of imprisonment for felony; pre-sentence report

Text of section as amended applies only to persons who commit a felony offense after January 1, 1994, by Laws 1993, Ch. 255, § 99

A. A sentence of imprisonment for a felony shall be a definite term of years and the person sentenced, unless otherwise provided by law, shall be committed to the custody of the state department of corrections.

B. No prisoner may be transferred to the custody of the state department of corrections without a certified copy of the judgment and sentence, signed by the sentencing judge, and a copy of a recent pre-sentence investigation report unless the court has waived preparation of the report.

C. Except as provided in section 13-604 the term of imprisonment for a felony shall be determined as follows for a first offense:

1. For a class 2 felony, five years.
2. For a class 3 felony, three and one-half years.
3. For a class 4 felony, two and one-half years.
4. For a class 5 felony, one and one-half years.
5. For a class 6 felony, one year.

HISTORY: Last year in which legislation affected this section: 1993

§ 13-702. Sentencing

A. Sentences provided in section 13-701 for a first conviction of a felony, except those felonies involving THE discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another or if a specific sentence is otherwise provided, may be increased or reduced by the court within the ranges set by this subsection. ANY reduction or increase shall be based on the aggravating and mitigating circumstances contained in subsections C and D of this section and shall be within the following ranges:

	Minimum	Maximum
1. For a class 2 felony	4 years	10 years
2. For a class 3 felony	2.5 years	7 years
3. For a class 4 felony	1.5 years	3 years
4. For a class 5 felony	9 months	2 years
5. For a class 6 felony	6 months	1.5 years

B. The upper or lower term imposed pursuant to section 13-604, 13-604.01, 13-604.02, 13-702.01 or 13-710 or subsection A of this section may be imposed only if the circumstances alleged to be in aggravation or mitigation of the crime are found to be true by the trial judge upon any evidence or information introduced or submitted to the court BEFORE sentencing or any evidence previously heard by the judge at the trial, and factual findings and reasons in support of such findings are set forth on the record at the time of sentencing.

C. For the purpose of determining the sentence pursuant to section 13-710 and subsection A of this section, the court shall consider the following aggravating circumstances:

1. Infliction or threatened infliction of serious physical injury, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-604.
2. Use, threatened use or possession of a deadly weapon or dangerous instrument during the commission of the crime, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-604.
3. If the offense involves the taking of or damage to property, the value of the property so taken or damaged.
4. Presence of an accomplice.
5. Especially heinous, cruel or depraved manner in which the offense was committed.
6. The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

7. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

8. At the time of the commission of the offense, the defendant was a public servant and the offense involved conduct directly related to THE DEFENDANT'S office or employment.

9. The physical, emotional and financial harm caused to the victim or, if the victim has died as a result of the conduct of the defendant, the emotional and financial harm caused to the victim's immediate family.

10. During the course of the commission of the offense, the death of an unborn child at any stage of its development occurred.

11. The defendant was previously convicted of a felony within the ten years immediately preceding the date of the offense. A conviction outside the jurisdiction of this state for an offense which if committed in this state would be punishable as a felony is a felony conviction for the purposes of this paragraph.

12. The defendant was wearing body armor as defined in section 13-3116.

13. If the victim of the offense is sixty-five or more years of age or is a handicapped person as defined by section 38-492.

14. Evidence that the defendant committed the crime out of malice toward a victim because of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3 or because of the defendant's perception of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3.

15. The defendant was convicted of a violation of section 13-1102, section 13-1103, section 13-1104, subsection A, paragraph 3 or section 13-1204, subsection A, paragraph 1 or 2 arising from an act that was committed while driving a motor vehicle and the defendant's alcohol concentration at the time of committing the offense was 0.18 or more. For the purposes of this paragraph, "alcohol concentration" has the same meaning prescribed in section 28-101.

16. Lying in wait for the victim or ambushing the victim during the commission of any felony.

17. THE OFFENSE WAS COMMITTED IN THE PRESENCE OF A CHILD AND ANY OF THE CIRCUMSTANCES EXIST THAT ARE SET FORTH IN SECTION 13-3601, SUBSECTION A.

18. Any other FACTOR THAT the court DEEMS appropriate to the ends of justice.

D. For the purpose of determining the sentence pursuant to section 13-710 and subsection A of this section, the court shall consider the following mitigating circumstances:

1. The age of the defendant.

2. The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.

3. The defendant was under unusual or substantial duress, although not such as to constitute a defense to prosecution.

4. The degree of the defendant's participation in the crime was minor, although not so minor as to constitute a defense to prosecution.

5. Any other FACTOR THAT the court DEEMS appropriate to the ends of justice.

In determining what sentence to impose, the court shall take into account the amount of aggravating circumstances and whether the amount of mitigating circumstances is sufficiently substantial to call for the lesser term. If the court finds aggravating circumstances and does not find any mitigating circumstances, the court shall impose an aggravated sentence.

E. The court in imposing sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the pre-sentence report.

F. Nothing in this section AFFECTS any provision of law THAT imposes the death penalty, THAT expressly provides for imprisonment for life or THAT authorizes or restricts the granting of probation and suspending the execution of sentence.

G. Notwithstanding any other provision of this title, if a person is convicted of any class 6 felony not involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument and if the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that it would be unduly harsh to sentence the defendant for a felony, the court may enter judgment of conviction for a class 1 misdemeanor and make disposition accordingly or may place the defendant on probation in accordance with chapter 9 of this title and refrain from designating the offense as a felony or misdemeanor until the probation is terminated. The offense shall be treated as a felony for all purposes until such time as the court may actually enter an order designating the offense a misdemeanor. This subsection DOES not apply to any person who stands convicted of a class 6 felony and who has previously been convicted of two or more felonies. IF a crime or public offense is punishable in the discretion of the court by a sentence as a class 6 felony or a class 1 misdemeanor, the offense shall be deemed a misdemeanor if the prosecuting attorney:

1. Files an information in superior court designating the offense as a misdemeanor.

2. Files a complaint in justice court or municipal court designating the offense as a misdemeanor within the jurisdiction of the respective court.

3. Files a complaint, with the consent of the defendant, before or during the preliminary hearing amending the complaint to charge a misdemeanor.

§ 8-207. Order of adjudication; non-criminal; use as evidence

A. Except as provided by section 13-2921.01 or sections 28-3304, 28-3306 and 28-3320, an order of the juvenile court in proceedings under this chapter shall not be deemed a conviction of crime, impose any civil disabilities ordinarily resulting from a conviction or operate to disqualify the juvenile in any civil service application or appointment.

B. The disposition of a juvenile in the juvenile court may not be used against the juvenile in any case or proceeding other than a criminal or juvenile case in any court, whether before or after reaching majority, except as provided by section 13-2921.01 or sections 28-3304, 28-3306 and 28-3320.

HISTORY: Last year in which legislation affected this section: 1998 Laws 1998, Ch. 4, § 9; Laws 1998, Ch. 37, § 1; Laws 1998, Ch. 216, § 2.

§ 13-914. Intensive probation; evaluation; sentence; criteria; limit; conditions

A. An adult probation officer shall prepare a pre-sentence report for every offender who has either:

1. Been convicted of a felony and for whom the granting of probation is not prohibited by law.

2. Violated probation by commission of a technical violation that was not chargeable or indictable as a criminal offense.

B. The adult probation officer shall evaluate the needs of the offender and the offender's risk to the community, including the nature of the offense and criminal history of the offender. If the nature of the offense and the prior criminal history of the offender indicate that the offender should be included in an intensive probation program pursuant to supreme court guidelines for intensive probation, the adult probation officer may recommend to the court that the offender be granted intensive probation.

C. The court may suspend the imposition or execution of the sentence and grant the offender a period of intensive probation in accordance with this chapter. Except for sentences that are imposed pursuant to section 13-3601, the sentence is tentative to the extent that it may be altered or revoked pursuant to this chapter, but for all other purposes it is a final judgment of conviction. This subsection does not preclude the court from imposing a term of intensive probation pursuant to section 13-3601.

D. When granting intensive probation the court shall set forth on the record the factual and legal reasons in support of the sentence.

E. Intensive probation shall be conditioned on the offender:

1. Maintaining employment or maintaining full-time student status at a school subject to the provisions of title 15 or title 32, chapter 30 and making progress deemed satisfactory to the probation

officer, or both, or being involved in supervised job searches and community service work at least six days a week throughout the offender's term of intensive probation.

2. Paying restitution and probation fees of not less than forty dollars unless, after determining the inability of the offender to pay the fee, the court assesses a lesser fee. Probation fees shall be deposited in the adult probation services fund established by section 12-267.

3. Establishing a residence at a place approved by the intensive probation team and not changing the offender's residence without the team's prior approval.

4. Remaining at the offender's place of residence at all times except to go to work, to attend school, to perform community service and as specifically allowed in each instance by the adult probation officer.

5. Allowing administration of drug and alcohol tests if requested by a member of the intensive probation team.

6. Performing not less than forty hours of community service each month. Full-time students may be exempted or required to perform fewer hours of community service. For good cause, the court may reduce the number of community service hours performed to not less than twenty hours each month.

7. Meeting any other conditions imposed by the court to meet the needs of the offender and limit the risks to the community, including participation in a program of community punishment authorized in title 12, chapter 2, article 11.

HISTORY: Last year in which legislation affected this section: 1998 Laws 1998, Ch. 111, § 1; Laws 1998, Ch. 294, § 4.

§ 13-107. Time limitations

A. A prosecution for any homicide, any offense listed in title 13, chapter 14 or chapter 35.1 that is a class 2 felony, any misuse of public monies or a felony involving falsification of public records may be commenced at any time.

B. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods after actual discovery by the state or the political subdivision having jurisdiction of the offense or discovery by the state or the political subdivision that should have occurred with the exercise of reasonable diligence, whichever first occurs:

1. For a class 2 through a class 6 felony, seven years.

2. For a misdemeanor, one year.

3. For a petty offense, six months.

C. For the purposes of subsection B of this section, a prosecution is commenced when an indictment, information or complaint is filed.

D. The period of limitation does not run during any time when the accused is absent from the state or has no reasonably ascertainable place of abode within the state.

E. The period of limitation does not run for a serious offense as defined in section 13-604 during any time when the identity of the person who commits the offense or offenses is unknown.

F. The time limitation within which a prosecution of a class 6 felony shall commence shall be determined pursuant to subsection B, paragraph 1 of this section, irrespective of whether a court enters a judgment of conviction for or a prosecuting attorney designates such offense as a misdemeanor.

G. If a complaint, indictment or information filed before the period of limitation has expired is dismissed for any reason, a new prosecution may be commenced within six months after the dismissal becomes final even if the period of limitation has expired at the time of the dismissal or will expire within six months of the dismissal.

[§ 13-902. Periods of probation](#)

A. Unless terminated sooner, probation may continue for the following periods:

1. For a class 2 felony, seven years.
2. For a class 3 felony, five years.
3. For a class 4 felony, four years.
4. For a class 5 or 6 felony, three years.
5. For a class 1 misdemeanor, three years.
6. For a class 2 misdemeanor, two years.
7. For a class 3 misdemeanor, one year.

B. Notwithstanding subsection A of this section, unless terminated sooner, probation may continue for the following periods:

1. For a violation of § 28-1381 or 28-1382, five years.
2. For a violation of § 28-1383, ten years.

C. When the court has required, as a condition of probation, that the defendant make restitution for any economic loss related to the defendant's offense and that condition has not been satisfied, the court at

any time prior to the termination or expiration of probation may extend the period within the following limits:

1. For a felony, not more than three years.
2. For a misdemeanor, not more than one year.

D. Notwithstanding any other provision of law, justice courts and municipal courts may impose the probation periods specified in subsection A, paragraphs 5, 6 and 7 and subsection B, paragraph 1 of this section.

E. After conviction of a felony offense or an attempt to commit any offense that is included in chapter 14 or 35.1 of this title [\[FN1\]](#) or § 13-2923 or 13-3623, if probation is available, probation may continue for a term not less than the term that is specified in subsection A of this section up to and including life and that the court believes is appropriate for the ends of justice.

§ 13-907. Setting aside judgment of convicted person on discharge; making of application; release from disabilities; exceptions

A. Except as provided in subsection B of this section, every person convicted of a criminal offense may, upon fulfillment of the conditions of probation or sentence and discharge by the court, apply to the judge, justice of the peace or magistrate who pronounced sentence or imposed probation or such judge, justice of the peace or magistrate's successor in office to have the judgment of guilt set aside. The convicted person shall be informed of this right at the time of discharge. The application to set aside the judgment may be made by the convicted person or by the convicted person's attorney or probation officer authorized in writing. If the judge, justice of the peace or magistrate grants the application, the judge, justice of the peace or magistrate shall set aside the judgment of guilt, dismiss the accusations or information and order that the person be released from all penalties and disabilities resulting from the conviction other than those imposed by the department of transportation pursuant to section 28-3304, 28-3306, 28-3307 or 28-3308, except that the conviction may be used as a conviction if such conviction would be admissible had it not been set aside and may be pleaded and proved in any subsequent prosecution of such person by the state or any of its subdivisions for any offense or used by the department of transportation in enforcing the provisions of section 28-3304, 28-3306, 28-3307 or 28-3308 as if the judgment of guilt had not been set aside.

B. This section does not apply to a person convicted of a criminal offense:

1. Involving the infliction of serious physical injury.
2. Involving the use or exhibition of a deadly weapon or dangerous instrument.
3. For which the person is required or ordered by the court to register pursuant to section 13-3821.
4. For which there has been a finding of sexual motivation pursuant to section 13-118.

5. In which the victim is a minor under fifteen years of age.

6. In violation of section 28-3473, any local ordinance relating to stopping, standing or operation of a vehicle or title 28, chapter 3, except a violation of section 28-693 or any local ordinance relating to the same subject matter as section 28-693.

F) CHILD CUSTODY PROVISIONS

25-402. Definitions

In this article, unless the context otherwise requires:

1. "Joint custody" means joint legal custody or joint physical custody, or both.

2. "Joint legal custody" means the condition under which both parents share legal custody and neither parent's rights are superior, except with respect to specified decisions as set forth by the court or the parents in the final judgment or order.

3. "Joint physical custody" means the condition under which the physical residence of the child is shared by the parents in a manner that assures that the child has substantially equal time and contact with both parents.

4. "Parenting time" means the condition under which a parent has the right to have a child physically placed with the parent and the right and responsibility to make, during that placement, routine daily decisions regarding the child's care consistent with the major decisions made by a person having legal custody.

5. "Sole custody" means the condition under which one person has legal custody.

§ 25-403. Custody; drug offenses; best interests of child; joint custody; domestic violence; modification of decree; fees

A. The court shall determine custody, either originally or ON petition for modification, in accordance with the best interests of the child. The court shall consider all relevant factors, including:

1. The wishes of the child's parent or parents as to custody.

2. The wishes of the child as to the custodian.

3. The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.

4. The child's adjustment to home, school and community.
5. The mental and physical health of all individuals involved.
6. Which parent is more likely to allow the child frequent and meaningful continuing contact with the other parent.
7. If one parent, both parents or neither parent has provided primary care of the child.
8. The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding custody.
9. Whether a parent has complied with chapter 3, article 5 of this title.

B. In awarding child custody, the court may order sole custody or joint custody. This section does not create a presumption in favor of one custody arrangement over another. The court in determining custody shall not prefer a parent as custodian because of that parent's sex.

C. The court may issue an order for joint custody of a child if both parents agree and submit a written parenting plan and the court finds such an order is in the best interests of the child. The court may order joint legal custody without ordering joint physical custody.

D. The court may issue an order for joint custody over the objection of one of the parents if the court makes specific written findings of why the order is in the child's best interests. In determining whether joint custody is in the child's best interests, the court shall consider the factors prescribed in subsection A of this section and all of the following:

1. The agreement or lack of an agreement by the parents regarding joint custody.
2. A parent's lack of agreement is unreasonable or is influenced by an issue not related to the best interests of the child.
3. The past, present and future abilities of the parents to cooperate in decision-making about the child to the extent required by the order of joint custody.
4. Whether the joint custody arrangement is logistically possible.

E. NOTWITHSTANDING SUBSECTION N OF THIS SECTION, joint custody shall not be awarded if the court makes a finding of the existence of significant domestic violence pursuant to section 13-3601 or if the court finds by a preponderance of the evidence that there has been a significant history of domestic violence.

F. Before an award is made granting joint custody, the parents shall submit a proposed parenting plan that includes at least the following:

1. Each parent's rights and responsibilities for the personal care of the child and for decisions in areas such as education, health care and religious training.

2. A schedule of the physical residence of the child, including holidays and school vacations.

3. A procedure by which proposed changes, disputes and alleged breaches may be mediated or resolved, which may include the use of conciliation services or private counseling.

4. A procedure for periodic review of the plan's terms by the parents.

5. A statement that the parties understand that joint custody does not necessarily mean equal parenting time.

G. If the parents are unable to agree on any element to be included in a parenting plan, the court shall determine that element. The court may determine other factors that are necessary to promote and protect the emotional and physical health of the child.

H. Unless otherwise provided by court order or law, on reasonable request both parents are entitled to have equal access to documents and other information concerning the child's education and physical, mental, moral and emotional health including medical, school, police, court and other records directly from the custodian of the records or from the other parent. A person who does not comply with a reasonable request shall reimburse the requesting parent for court costs and attorney fees incurred by that parent to force compliance with this subsection. A parent who attempts to restrict the release of documents or information by the custodian under this subsection without a prior court order is subject to appropriate legal sanctions.

I. The court may specify one parent as the primary caretaker of the child and one home as the primary home of the child for the purposes of defining eligibility for public assistance. This finding does not diminish the rights of either parent and does not create a presumption for or against either parent in a proceeding for the modification of a custody order.

J. In a contested custody case, the court shall make specific findings on the record about all relevant factors and the reasons for which the decision is in the best interests of the child.

K. IF THE COURT DETERMINES THAT A PARENT HAS BEEN CONVICTED OF ANY DRUG OFFENSE UNDER TITLE 13, CHAPTER 34 OR ANY VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383 WITHIN TWELVE MONTHS BEFORE THE PETITION OR THE REQUEST FOR CUSTODY IS FILED, THERE IS A REBUTTABLE PRESUMPTION THAT SOLE OR JOINT CUSTODY BY THAT PARENT IS NOT IN THE CHILD'S BEST INTERESTS. IN MAKING THIS DETERMINATION THE COURT SHALL STATE ITS:

1. FINDINGS OF FACT THAT SUPPORT ITS DETERMINATION THAT THE PARENT WAS CONVICTED OF THE OFFENSE.

2. FINDINGS THAT THE CUSTODY OR VISITATION ARRANGEMENT ORDERED BY THE COURT APPROPRIATELY PROTECTS THE CHILD.

L. TO DETERMINE IF THE PERSON HAS REBUTTED THE PRESUMPTION ESTABLISHED UNDER SUBSECTION K OF THIS SECTION, AT A MINIMUM THE COURT SHALL CONSIDER THE FOLLOWING EVIDENCE:

1. THE ABSENCE OF ANY CONVICTION OF ANY OTHER DRUG OFFENSE DURING THE PREVIOUS FIVE YEARS.
2. RESULTS OF RANDOM DRUG TESTING FOR A SIX MONTH PERIOD THAT INDICATE THAT THE PERSON IS NOT USING DRUGS AS PROSCRIBED BY TITLE 13, CHAPTER 34.

M. THE COURT SHALL CONSIDER EVIDENCE OF DOMESTIC VIOLENCE AS BEING CONTRARY TO THE BEST INTERESTS OF THE CHILD. THE COURT SHALL CONSIDER THE SAFETY AND WELL-BEING OF THE CHILD AND OF THE VICTIM OF THE ACT OF DOMESTIC VIOLENCE TO BE OF PRIMARY IMPORTANCE. THE COURT SHALL CONSIDER A PERPETRATOR'S HISTORY OF CAUSING OR THREATENING TO CAUSE PHYSICAL HARM TO ANOTHER PERSON.

N. IF THE COURT DETERMINES THAT A PARENT WHO IS SEEKING CUSTODY HAS COMMITTED AN ACT OF DOMESTIC VIOLENCE AGAINST THE OTHER PARENT, THERE IS A REBUTTABLE PRESUMPTION THAT AN AWARD OF CUSTODY TO THE PARENT WHO COMMITTED THE ACT OF DOMESTIC VIOLENCE IS CONTRARY TO THE CHILD'S BEST INTERESTS. THIS PRESUMPTION DOES NOT APPLY IF BOTH PARENTS HAVE COMMITTED AN ACT OF DOMESTIC VIOLENCE. FOR THE PURPOSES OF THIS SUBSECTION, A PERSON COMMITS AN ACT OF DOMESTIC VIOLENCE IF THAT PERSON DOES ANY OF THE FOLLOWING:

1. INTENTIONALLY, KNOWINGLY OR RECKLESSLY CAUSES OR ATTEMPTS TO CAUSE SEXUAL ASSAULT OR SERIOUS PHYSICAL INJURY.
2. PLACES A PERSON IN REASONABLE APPREHENSION OF IMMINENT SERIOUS PHYSICAL INJURY TO ANY PERSON.
3. ENGAGES IN A PATTERN OF BEHAVIOR FOR WHICH A COURT MAY ISSUE AN EX PARTE ORDER TO PROTECT THE OTHER PARENT WHO IS SEEKING CHILD CUSTODY OR TO PROTECT THE CHILD AND THE CHILD'S SIBLINGS.

O. TO DETERMINE IF THE PARENT HAS REBUTTED THE PRESUMPTION THE COURT SHALL CONSIDER ALL OF THE FOLLOWING:

1. WHETHER THE PARENT HAS DEMONSTRATED THAT BEING AWARDED SOLE CUSTODY OR JOINT PHYSICAL OR LEGAL CUSTODY IS IN THE CHILD'S BEST INTERESTS.

2. WHETHER THE PARENT HAS SUCCESSFULLY COMPLETED A BATTERER'S PREVENTION PROGRAM.

3. WHETHER THE PARENT HAS SUCCESSFULLY COMPLETED A PROGRAM OF ALCOHOL OR DRUG ABUSE COUNSELING, IF THE COURT DETERMINES THAT COUNSELING IS APPROPRIATE.

4. WHETHER THE PARENT HAS SUCCESSFULLY COMPLETED A PARENTING CLASS, IF THE COURT DETERMINES THAT A PARENTING CLASS IS APPROPRIATE.

5. IF THE PARENT IS ON PROBATION, PAROLE OR COMMUNITY SUPERVISION, WHETHER THE PARENT IS RESTRAINED BY A PROTECTIVE ORDER THAT WAS GRANTED AFTER A HEARING.

6. WHETHER THE PARENT HAS COMMITTED ANY FURTHER ACTS OF DOMESTIC VIOLENCE.

P. IF THE COURT FINDS THAT A PARENT HAS COMMITTED AN ACT OF DOMESTIC VIOLENCE, THAT PARENT HAS THE BURDEN OF PROVING TO THE COURT'S SATISFACTION THAT VISITATION WILL NOT ENDANGER THE CHILD OR SIGNIFICANTLY IMPAIR THE CHILD'S EMOTIONAL DEVELOPMENT. IF THE PARENT MEETS THIS BURDEN TO THE COURT'S SATISFACTION, THE COURT SHALL PLACE CONDITIONS ON VISITATION THAT BEST PROTECT THE CHILD AND THE OTHER PARENT FROM FURTHER HARM. THE COURT MAY:

1. ORDER THAT AN EXCHANGE OF THE CHILD MUST OCCUR IN A PROTECTED SETTING AS SPECIFIED BY THE COURT.

2. ORDER THAT AN AGENCY SPECIFIED BY THE COURT MUST SUPERVISE VISITATION. IF THE COURT ALLOWS A FAMILY OR HOUSEHOLD MEMBER TO SUPERVISE VISITATION, THE COURT SHALL ESTABLISH CONDITIONS THAT THIS PERSON MUST FOLLOW DURING VISITATION.

3. ORDER THE PARENT WHO COMMITTED THE ACT OF DOMESTIC VIOLENCE TO ATTEND AND COMPLETE, TO THE COURT'S SATISFACTION, A PROGRAM OF INTERVENTION FOR PERPETRATORS OF DOMESTIC VIOLENCE AND ANY OTHER COUNSELING THE COURT ORDERS.

4. ORDER THE PARENT WHO COMMITTED THE ACT OF DOMESTIC VIOLENCE TO ABSTAIN FROM POSSESSING OR CONSUMING ALCOHOL OR CONTROLLED SUBSTANCES DURING VISITATION AND FOR TWENTY-FOUR HOURS BEFORE VISITATION.

5. ORDER THE PARENT WHO COMMITTED THE ACT OF DOMESTIC VIOLENCE TO PAY A FEE TO THE COURT TO DEFRAY THE COSTS OF SUPERVISED VISITATION.

6. PROHIBIT OVERNIGHT VISITATION.

7. REQUIRE A BOND FROM THE PARENT WHO COMMITTED THE ACT OF DOMESTIC VIOLENCE FOR THE CHILD'S SAFE RETURN.

8. ORDER THAT THE ADDRESS OF THE CHILD AND THE OTHER PARENT REMAIN CONFIDENTIAL.

9. IMPOSE ANY OTHER CONDITION THAT THE COURT DETERMINES IS NECESSARY TO PROTECT THE CHILD, THE OTHER PARENT AND ANY OTHER FAMILY OR HOUSEHOLD MEMBER.

Q. IN DETERMINING WHETHER THE ABSENCE OR RELOCATION OF A PARENT SHALL BE WEIGHED AGAINST THAT PARENT IN DETERMINING CUSTODY OR VISITATION, THE COURT MAY CONSIDER WHETHER THE ABSENCE OR RELOCATION WAS CAUSED BY AN ACT OF DOMESTIC VIOLENCE BY THE OTHER PARENT.

R. THE COURT SHALL NOT ORDER JOINT COUNSELING BETWEEN A VICTIM AND THE PERPETRATOR OF DOMESTIC VIOLENCE. THE COURT MAY REFER A VICTIM TO APPROPRIATE COUNSELING AND SHALL PROVIDE A VICTIM WITH WRITTEN INFORMATION ABOUT AVAILABLE COMMUNITY RESOURCES RELATED TO DOMESTIC VIOLENCE.

S. TO DETERMINE IF A PERSON HAS COMMITTED AN ACT OF DOMESTIC VIOLENCE THE COURT, SUBJECT TO THE RULES OF EVIDENCE, SHALL CONSIDER ALL RELEVANT FACTORS INCLUDING THE FOLLOWING:

1. FINDINGS FROM ANOTHER COURT OF COMPETENT JURISDICTION.
2. POLICE REPORTS.
3. MEDICAL REPORTS.
4. CHILD PROTECTIVE SERVICES RECORDS.
5. DOMESTIC VIOLENCE SHELTER RECORDS.
6. SCHOOL RECORDS.
7. WITNESS TESTIMONY.

T. A PERSON SHALL NOT MAKE A motion to modify a custody decree earlier than one year after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may seriously endanger the child's physical, mental, moral or emotional health. At any time after a joint custody order is entered, a parent may petition the court for modification of the order on the basis of evidence that domestic violence pursuant to section 13-1201 or 13-1204, spousal abuse or child abuse occurred since the entry of the joint custody order. Six months

after a joint custody order is entered, a parent may petition the court for modification of the order based on the failure of the other parent to comply with the provisions of the order. A motion or petition to modify a custody order shall meet the requirements of sections 25-408 and 25-411.

U. Attorney fees and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

V. In a proceeding regarding sole custody or joint custody, either party may request attorney fees, costs and expert witness fees to enable the party with insufficient resources to obtain adequate legal representation and to prepare evidence for the hearing. If the court finds there is a financial disparity between the parties, the court may order payment of reasonable fees, expenses and costs to allow adequate preparation.

W. For any custody order entered under this section, the court shall determine an amount of child support in accordance with section 25-320 and guidelines established pursuant to that section. An award of joint custody does not diminish the responsibility of either parent to provide for the support of the child.

X. The court shall not request or order the services of the division of children and family services in the department of economic security unless it believes that a child may be the victim of child abuse or neglect as defined in section 8-201.

§ 25-408. Rights of non-custodial parent; visitation; exception; enforcement; access to records; suspension of visitation; relocation of child

A. A parent WHO IS not granted custody of the child is entitled to reasonable visitation rights to ensure that the minor child has frequent and continuing contact with the non-custodial parent unless the court finds, after a hearing, that visitation would endanger seriously the child's physical, mental, moral or emotional health.

B. The court may modify an order granting or denying visitation rights whenever modification would serve the best interest of the child, but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger seriously the child's physical, mental, moral or emotional health.

C. If by written agreement or court order both parents are entitled to custody or visitation and both parents reside in the state, at least sixty days' advance written notice shall be provided to the other parent before a parent may do either of the following:

1. Relocate the child outside the state.
2. Relocate the child more than one hundred miles within the state.

D. The notice required by this section shall be made by certified mail, return receipt requested, or pursuant to the Arizona rules of civil procedure. A parent who does not comply with the notification

requirements of this subsection is subject to court sanction. The court may impose a sanction that will affect custody or visitation only in accordance with the child's best interests.

E. Within thirty days after notice is made the nonmoving parent may petition the court to prevent relocation of the child. After expiration of this time any petition or other application to prevent relocation of the child may be granted only on a showing of good cause. This subsection does not prohibit a parent who is seeking to relocate the child from petitioning the court for a hearing, on notice to the other parent, to determine the appropriateness of a relocation that may adversely affect the other parent's custody or visitation rights.

F. Subsection C of this section does not apply if provision for relocation of a child has been made by a court order or a written agreement of the parties that is dated within one year of the proposed relocation of the child.

G. Pending the determination by the court of a petition or application to prevent relocation of the child:

1. A parent with sole custody or a parent with joint custody and primary physical custody who is required by circumstances of health or safety or employment of that parent or that parent's spouse to relocate in less than sixty days after written notice has been given to the other parent may temporarily relocate with the child.

2. A parent who shares joint custody and substantially equal physical custody and who is required by circumstances of health or safety or employment of that parent or that parent's spouse to relocate in less than sixty days after written notice has been given to the other parent may temporarily relocate with the child only if both parents execute a written agreement to permit relocation of the child.

H. The court shall determine whether to allow the parent to relocate the child in accordance with the child's best interests. The burden of proving what is in the child's best interests is on the parent who is seeking to relocate the child. To the extent practicable the court shall also make appropriate arrangements to ensure the continuation of a meaningful relationship between the child and both parents.

I. The court shall not deviate from a provision of any parenting plan or other written agreement by which the parents specifically have agreed to allow or prohibit relocation of the child unless the court finds that the provision is no longer in the child's best interests. There is a rebuttable presumption that a provision from any parenting plan or other written agreement is in the child's best interests.

J. In determining the child's best interests the court shall consider all relevant factors including:

1. The factors prescribed under section 25-403.
2. Whether the relocation is being made or opposed in good faith and not to interfere with or to frustrate the relationship between the child and the other parent or the other parent's right of access to the child.

3. The prospective advantage of the move for improving the general quality of life for the custodial parent or for the child.

4. The likelihood that the parent with whom the child will reside after the relocation will comply with visitation orders.

5. Whether the relocation will allow a realistic opportunity for visitation with each parent.

6. The extent to which moving or not moving will affect the emotional, physical or developmental needs of the child.

7. The motives of the parents and the validity of the reasons given for moving or opposing the move including the extent to which either parent may intend to gain a financial advantage regarding continuing child support obligations.

8. The potential effect of relocation on the child's stability.

K. The court shall assess attorney fees and court costs against either parent if the court finds that the parent has unreasonably denied, restricted or interfered with court-ordered visitation.

L. Pursuant to section 25-403, subsection [K] [H] , the noncustodial parent is entitled to have access to documents and other information about the child unless the court finds that access would endanger seriously the child's or the custodial parent's physical, mental, moral or emotional health.

M. Notwithstanding section 25-411, if after a custody or visitation order is in effect one of the parents is charged with a dangerous crime against children as defined in section 13-604.01, child molestation as defined in section 13-1410 or an act of domestic violence as defined in section 13-3601 in which the victim is a minor, the other parent may petition the court for an expedited hearing. Pending the expedited hearing, the court may suspend visitation or change custody ex parte.

§ 25-414. Violation of visitation or parenting time rights; penalties

A. If the court, based on a verified petition and after it gives reasonable notice to an alleged violating parent and an opportunity for that person to be heard, finds that a parent has refused without good cause to comply with a visitation or parenting time order, the court shall do at least one of the following:

1. Find the violating parent in contempt of court
2. Order visitation or parenting time to make up for the missed sessions.
3. Order parent education at the violating parent's expense.
4. Order family counseling at the violating parent's expense.
5. Order civil penalties of not to exceed one hundred dollars for each violation. The court shall transmit monies collected pursuant to this paragraph each month to the county treasurer. The county treasurer shall transmit these monies monthly to the state treasurer for deposit into the alternative dispute resolution fund established by section 12-135.
6. Order both parents to participate in mediation or some other appropriate form of alternative dispute resolution at the violating parent's expense.
7. Make any other order that may promote the best interests of the child or children involved.

B. Within twenty-five days of service of the petition the court shall hold a hearing or conference before a judge, commissioner or person appointed by the court to review noncompliance with a visitation or parenting time order.

C. Court costs and attorney fees incurred by the nonviolating parent associated with the review of noncompliance with a visitation or parenting time order shall be paid by the violating parent. In the event the custodial parent prevails, the court in its discretion may award court costs and attorney fees to the custodial parent.

G. CHILD CUSTODY JURISDICTION PROVISIONS

§ 25-1002. Definitions (Uniform Child Custody Jurisdiction Enforcement Act)

In this chapter, unless the context otherwise requires:

1. "Abandoned" means left without provision for reasonable and necessary care or supervision.

2. "Child" has the same meaning prescribed in section 1-215.

3. "Child custody determination":

(a) Means any judgment, decree or other order of a court, including a permanent, temporary, initial and modification order, for legal custody, physical custody or visitation with respect to a child.

(b) Does not include an order relating to child support or any other monetary obligation of an individual.

4. "Child custody proceeding":

(a) Means a proceeding, including a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights and protection from domestic violence, in which legal custody, physical custody or visitation with respect to a child is an issue or in which that issue may appear.

(b) Does not include a proceeding involving juvenile delinquency, contractual emancipation or enforcement under article 3 of this chapter.

5. "Commencement" means the filing of the first pleading in a proceeding.

6. "Court" means an entity authorized under the law of a state to establish, enforce or modify a child custody determination.

7. "Home state" means:

(a) The state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding, including any period during which that person is temporarily absent from that state.

(b) If a child is less than six months of age, the state in which the child lived from birth with a parent or person acting as a parent, including any period during which that person is temporarily absent from that state.

8. "Initial determination" means the first child custody determination concerning a particular child.

9. "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this chapter.

10. "Issuing state" means the state in which a child custody determination is made.

11. "Modification" means a child custody determination that changes, replaces, supersedes or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

12. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, or public corporation or any other legal or commercial entity.

13. "Person acting as a parent" means a person, other than a parent, who meets both of the following requirements:

(a) Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding.

(b) Has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

14. "Physical custody" means the physical care and supervision of a child.

15. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

16. "Tribe" means an Indian tribe or band or Alaskan native village that is recognized by federal law or formally acknowledged by a state.

17. "Visitation" includes parenting time as defined in section 25- 402.

18. "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

§ 25-1031. Initial child custody jurisdiction

A. Except as otherwise provided in ' 25-1034, a court of this State has jurisdiction to make an initial child custody determination only if any of the following is true:

1. This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state.

2. A court of another state does not have jurisdiction under paragraph 1 or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under ' 25-1037 or 25- 1038 and both of the following are true:

(a) The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence.

(b) Substantial evidence is available in this state concerning the child's care, protection, training and personal relationships.

3. All courts having jurisdiction under paragraph 1 or 2 have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under ' 25-1037 or 25- 1038.

4. A court of any other state would not have jurisdiction under the criteria specified in paragraph 1, 2 or 3.

B. Subsection A of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

C. Physical presence of or personal jurisdiction over a party or a child is not necessary or sufficient to make a child custody determination.

§ 25-1034. Temporary emergency jurisdiction

A. A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

B. If there is no previous child custody determination that is entitled to be enforced under this chapter and a child custody proceeding has not been commenced in a court of a state having

jurisdiction under 25-1031, 25-1032 or 25-1033, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under ' 25-1031, 25-1032 or 25-1033. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under ' 25- 1031, 25-1032 or 25-1033, a child custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.

C. If there is a previous child custody determination that is entitled to be enforced under this chapter or a child custody proceeding has been commenced in a court of a state having jurisdiction under ' 25-1031, 25-1032 or 25-1033, any order issued by a court of this state under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under ' 25-1031, 25-1032 or 25-1033. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

D. A court of this state that has been asked to make a child custody determination under this section, on being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under ' 25-1031, 25-1032 or 25- 1033, shall immediately communicate with the other court. A court of this State that exercises jurisdiction pursuant to ' 25-1031, 25-1032 or 25-1033, on being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of another State under a statute similar to this section, shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child and determine a period for the duration of the temporary order.

§ 25-1037. Inconvenient forum

A. A court of this state that has jurisdiction under this chapter to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised on motion of a party, the court's own motion or request of another court.

B. Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors including:

1. Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child.
2. The length of time the child has resided outside this state.

3. The distance between the court in this state and the court in the state that would assume jurisdiction.

4. The relative financial circumstances of the parties.

5. Any agreement of the parties as to which state should assume jurisdiction.

6. The nature and location of the evidence required to resolve the pending litigation, including testimony of the child.

7. The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.

8. The familiarity of the court of each state with the facts and issues in the pending litigation.

C. If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings on condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

D. A court of this state may decline to exercise its jurisdiction under this chapter if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

§ 25-1055. Registration of child custody determination

A. A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the appropriate court in this state all of the following:

1. A letter or another document requesting registration.

2. Two copies, including one certified copy, of the determination sought to be registered and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has

3. Except as otherwise provided in ' 25-1039, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

B. On receipt of the documents required by subsection A of this section, the registering court shall:

1. Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form.

2. Serve notice on the persons named pursuant to subsection A, paragraph 3 of this section and provide them with an opportunity to contest the registration in accordance with this section.

C. The notice required by subsection B, paragraph 2 of this section must state that:

1. A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this State.

2. A hearing to contest the validity of the registered determination must be requested within twenty days after service of notice.

3. Failure to contest the registration shall result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

D. A person seeking to contest the validity of a registered order must request a hearing within twenty days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes any of the following:

1. The issuing court did not have jurisdiction under Article 2 of this chapter. [\[FN1\]](#)

2. The child custody determination sought to be registered has been vacated, stayed or modified by a court having jurisdiction to do so under Article 2 of this chapter. [\[FN2\]](#)

3. The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of ' 25-1008, in the proceedings before the court that issued the order for which registration is sought.

E. If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

F. Confirmation of a registered order, whether by operation of law or after notice and a hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

[FN1] Section 25-1031 et seq.

[FN2] Section 25-1051 et seq.

H) PATERNITY PROVISIONS

§ 25-803. Persons who may originate proceedings; custody; parenting time; conciliation court

A. Proceedings to establish the maternity or paternity of a child or children and to compel support under this article may be commenced by any of the following:

1. The mother.
2. The father.
3. The guardian, conservator or best friend of a child or children born out of wedlock.
4. A public welfare official or agency of the county where the child or children reside or may be found.
5. The state pursuant to section 25-509.

B. An adult may bring an action to establish the adult's biological parent.

C. Any party to a proceeding under this article other than the state may request that custody and specific parenting time be determined as a part of the proceeding. When paternity is established the court may award custody and parenting time as provided in section 25-408. The attorney general or county attorney shall not seek or defend any ancillary matters such as custody or parenting time.

D. In any case in which paternity is established the parent with whom the child has resided for the greater part of the last six months shall have legal custody unless otherwise ordered by the court.

E. The services of the conciliation court may be used in regard to disputed matters of custody and parenting time.

§ 25-812. Voluntary acknowledgment of paternity; action to overcome paternity

A. This state or the parent of a child born out of wedlock may establish the paternity of a child by filing one of the following with the clerk of the superior court:

1. A birth certificate that is signed by the mother and father of a child born out of wedlock.

2. A notarized statement that contains the social security numbers of both parents and that is signed by both parents acknowledging paternity or separate substantially similar notarized statements acknowledging paternity. If another man is presumed to be the child's father pursuant to section 25-814, a person may make an acknowledgment of paternity only with the presumed father's written consent.

3. An agreement by the parents to be bound by the results of genetic testing including any genetic test previously accepted by a court of competent jurisdiction, or any combination of genetic testing agreed to by the parties, and an affidavit from a certified laboratory that the tested father has not been excluded.

B. On filing a document required in subsection A of this section with the clerk of the superior court, the clerk shall issue an order establishing paternity, which shall include the social security number of the parents and may amend the name of the child or children, if requested by the parents. The clerk shall transmit a copy of the order of paternity to the department of health services.

C. On entry of an order by the clerk of the superior court, the paternity determination has the same force and effect as a judgment of the superior court. In a non-title IV-D case, the clerk shall transmit a copy of an order granted under this subsection to the state title IV-D agency. The case filing fee prescribed by section 12-284 shall not be charged to any person who, in the same county, initiates or responds to a proceeding to establish child support or to obtain an order for custody or parenting time within ninety days after an order establishing paternity is issued under subsection B of this section.

D. This state or the parent of a child born out of wedlock may establish paternity by filing with the department of health services pursuant to section 36-322 either a notarized statement that contains the social security numbers of both parents, that is signed by both parents and that acknowledges paternity or by separate but substantially similar notarized statements that acknowledge paternity. A notarized statement that acknowledges paternity may be filed with the department of economic security, which shall transmit these statements to the department of health services. A statement made pursuant to this subsection is a determination of paternity and has the same force and effect as a superior court judgment.

E. Pursuant to rule 60(c) of the Arizona rules of civil procedure, the mother, father or child, or a party to the proceeding on a rule 60(c) motion may challenge a voluntary acknowledgment of paternity established in this state at any time after the sixty day period only on the basis of fraud, duress or material mistake of fact, with the burden of proof on the challenger and under which the legal responsibilities, including child support obligations of any signatory arising from the

acknowledgment shall not be suspended during the challenge except for good cause shown. The court shall order the mother, her child or children and the alleged father to submit to genetic testing and shall direct that appropriate testing procedures determine the inherited characteristics, including blood and tissue type. If the court finds by clear and convincing evidence that the genetic tests demonstrate that the established father is not the biological father of the child, the court shall vacate the determination of paternity and terminate the obligation of that party to pay ongoing child support. An order vacating the determination of paternity operates prospectively only and does not alter the obligation to pay child support arrearages or, unless otherwise ordered by the court, any other amount previously ordered to be paid pursuant to section 25-809.

F. Before signing a voluntary acknowledgment of paternity pursuant to this section, the parties shall be provided notice of the alternatives to, the legal consequences of and the rights and responsibilities that arise from signing the acknowledgment.

G. The department of economic security shall notify the department of health services of all paternity determinations and rescissions.

H. The mother or the father may rescind the acknowledgment of paternity within the earlier of:

1. Sixty days after the last signature is affixed to the notarized acknowledgment of paternity that is filed with the department of economic security, the department of health services or the clerk of the court.

2. The date of a proceeding relating to the child, including a child support proceeding in which the mother or father is a party.

I. A copy of each rescission of paternity shall be filed with the department of health services. The department of health services shall mail a copy of the rescission of paternity to the other parent and to the department of economic security.

J. Voluntary acknowledgments of paternity and rescissions of paternity filed pursuant to this section shall contain data elements in accordance with the requirements of the United States secretary of health and human services.

D) DIVORCE & SEPARATION PROVISIONS

§ 25-312. Dissolution of marriage; findings necessary

The court shall enter a decree of dissolution of marriage if it finds each of the following:

1. That one of the parties, at the time the action was commenced, was domiciled in this state, or was stationed in this state while a member of the armed services, and that in either case the domicile or military presence has been maintained for ninety days prior to filing the petition for dissolution of marriage.

2. The conciliation provisions of section 25-381.09 and the provisions of article 5 of this chapter either do not apply or have been met.

3. The marriage is irretrievably broken or, if the marriage is a covenant marriage, any of the grounds prescribed in section 25-903.

4. To the extent it has jurisdiction to do so, the court has considered, approved and made provision for child custody, the support of any natural or adopted child common to the parties of the marriage entitled to support, the maintenance of either spouse and the disposition of property.

HISTORY: Last year in which legislation affected this section: 1999 Laws 1999, Ch. 59, § 8.

§ 25-329. Waiting period

The court shall not consider a submission of a motion supported by affidavit or hold a trial or hearing on an application for a decree of dissolution of marriage or legal separation until sixty days after the date of service of process or the date of acceptance of process.

HISTORY: Last year in which legislation affected this section: 1990

§ 25-313. Decree of legal separation; findings necessary

The court shall enter a decree of legal separation if it finds each of the following:

1. That one of the parties at the time the action WAS commenced was domiciled in this state or was stationed in this state while a member of the armed services.

2. The conciliation provisions of section 25-381.09 and the provisions of article 5 of this chapter either do not apply or have been met.

3. The marriage is irretrievably broken or one or both of the parties desire to live separate and apart or, if the marriage is a covenant marriage, any of the grounds prescribed in section 25-904.

4. The other party does not object to a decree of legal separation. If the other party objects to a decree of legal separation, ON one of the parties meeting the required domicile for dissolution of marriage, THE COURT shall direct that the pleadings be amended to seek a dissolution of the marriage.

5. To the extent it has jurisdiction to do so, the court has considered, approved or made provisions for child custody, the support of any natural or adopted child common to the parties of the marriage entitled to support, the maintenance of either spouse and the disposition of the property.

HISTORY: Approved by the Governor on April 24, 2000

§ 25-101. Void and prohibited marriages

A. Marriage between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the one-half as well as the whole blood, and between uncles and nieces, aunts and nephews and between first cousins, is prohibited and void.

B. Notwithstanding subsection A, first cousins may marry if both are sixty-five years of age or older or if one or both first cousins are under sixty-five years of age, upon approval of any superior court judge in the state if proof has been presented to the judge that one of the cousins is unable to reproduce.

C. Marriage between persons of the same sex is void and prohibited.

HISTORY: Last year in which legislation affected this section: 1996

§ 25-301. Grounds (for annulment)

Superior courts may dissolve a marriage, and may adjudge a marriage to be null and void when the cause alleged constitutes an impediment rendering the marriage void.

HISTORY: Last year in which legislation affected this section: 1955

§ 25-381.09. Petition invoking jurisdiction or for transfer of action to conciliation court

Prior to the filing of any action for annulment, dissolution of marriage, or legal separation, either spouse, or both spouses, may file in the conciliation court a petition invoking the jurisdiction of the court for the purpose of preserving the marriage by effecting a conciliation between the parties or for amicable settlement of the controversy between the spouses so as to avoid further litigation over the issue involved. In any case where an action for annulment, dissolution of marriage, or legal separation has been filed, either party thereto may by petition filed therein have the cause transferred to the conciliation court for proceedings in the same manner as though action had been instituted in the conciliation court in the first instance.

HISTORY: Last year in which legislation affected this section: 1973

§ 25-315. Temporary order or preliminary injunction; effect; definition

A. In all actions for dissolution of marriage, for legal separation or for annulment, the clerk of the court shall pursuant to order of the superior court issue a preliminary injunction in the following manner:

1. The preliminary injunction shall be directed to each party to the action and contain the following orders:

(a) That both parties are enjoined from transferring, encumbering, concealing, selling or otherwise disposing of any of the joint, common or community property of the parties except if related to the usual course of business, the necessities of life or court fees and reasonable attorney fees associated with an action filed under this article, without the written consent of the parties or the permission of the court.

(b) That both parties are enjoined from:

(i) Molesting, harassing, disturbing the peace of or committing an assault or battery on the person of the other party or any natural or adopted child of the parties.

(ii) Removing any natural or adopted child of the parties then residing in Arizona from the jurisdiction of the court without the prior written consent of the parties or the permission of the court.

(iii) Removing or causing to be removed the other party or the children of the parties from any existing insurance coverage, including medical, hospital, dental, automobile and disability insurance.

(c) That both parties shall maintain all insurance coverage in full force and effect.

2. The preliminary injunction shall include the following statement:

Warning

This is an official court order. If you disobey this order the court may find you in contempt of court. You may also be arrested and prosecuted for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.

You or your spouse may file a certified copy of this order with your local law enforcement agency. A certified copy may be obtained from the clerk of the court that issued this order. If you are the person that brought this action, you must also file evidence with the law enforcement agency that this order was served on your spouse.

This court order is effective until a final decree of dissolution, legal separation or annulment is filed or the action is dismissed.

3. The preliminary injunction IS effective against the petitioner WHEN the petition IS FILED and against the respondent ON service of a copy of the order R ON ACTUAL NOTICE OF THE ORDER, WHICHEVER IS SOONER. IF service IS by registered mail under the Arizona rules of civil procedure, the order IS effective ON receipt of the order. The order REMAINS effective until further order of the court or the entry of a decree of dissolution, legal separation or annulment.

4. At the time of filing the petition for dissolution, legal separation or annulment, the copies of the preliminary injunction shall be issued to the petitioner or the agent, servant or employee filing the petition for dissolution , legal separation OR ANNULMENT . The petitioner IS deemed to have

accepted service of the petitioner's copy of the preliminary injunction and to have actual notice of ITS contents by filing or causing to be filed a petition for dissolution, legal separation or annulment. The petitioner shall cause a copy of the preliminary injunction to be served ON the respondent with a copy of the summons and petition for dissolution, legal separation or annulment.

5. The preliminary injunction HAS the force and effect of an order of the superior court signed by a judge and IS enforceable by all remedies made available by law, including contempt of court. Rules 65(a)(1) and 65(e) of the rules of civil procedure DO not APPLY to the preliminary injunction.

B. In a proceeding for dissolution of marriage, for legal separation, for annulment or for maintenance or support following dissolution of the marriage by a court THAT lacked personal jurisdiction over the absent spouse, either party may move for AN ORDER FOR EQUAL POSSESSION OF THE LIQUID ASSETS OF THE MARITAL PROPERTY, temporary maintenance or temporary support of a child, natural or adopted, common to the parties entitled to support. THE COURT SHALL PROVIDE FOR AN ORDER FOR EQUAL POSSESSION OF THE LIQUID ASSETS OF THE MARITAL PROPERTY THAT EXISTED AS OF THE DATE THE PETITION FOR DISSOLUTION OR LEGAL SEPARATION OR ANNULMENT WAS SERVED, UNLESS THE COURT FINDS THAT THERE IS GOOD CAUSE NOT TO DIVIDE THOSE ASSETS. THE COURT'S DIVISION OF LIQUID ASSETS HELD BY FINANCIAL INSTITUTIONS DOES NOT INVALIDATE APPLICABLE LAW OR ANY PROVISION OF AN ACCOUNT AGREEMENT THAT ASSESSES PENALTIES AGAINST THE ACCOUNT HOLDER FOR PREMATURE OR UNSCHEDULED WITHDRAWALS OF ACCOUNT FUNDS. The motion shall be accompanied by an affidavit setting forth THE LIQUID ASSETS OF THE PARTIES, the factual basis for the motion and the amounts requested. AN ORDER FOR EQUAL POSSESSION OF THE LIQUID ASSETS OF THE MARITAL PROPERTY DOES NOT PREJUDICE ANY FINAL DIVISION OF THE MARITAL COMMUNITY. THIS SUBSECTION DOES NOT ELIMINATE THE APPLICATION OF THE PRELIMINARY INJUNCTION.

C. As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction for any of the following relief:

1. Excluding a party from the family home or from the home of the other party ON a showing that physical or emotional harm may otherwise result.
2. Providing other injunctive relief proper in the circumstances.

D. The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury will result to the moving party if no order is issued until the time for responding has elapsed. A bond IS NOT required unless the court deems it appropriate.

E. On the basis of the showing made, and in conformity with sections 25-318 and 25-319, the court may issue a preliminary injunction and an order for temporary maintenance or support in amounts and on terms just and proper in the circumstances. The court may also make temporary orders respecting the property of the parties, as may be necessary.

F. A temporary order or preliminary injunction:

1. Does not prejudice the rights of the parties or any child which are to be adjudicated at the subsequent hearings in the proceeding.

2. May be revoked or modified before final decree on a showing by affidavit of the facts necessary to revocation or modification of a final decree under section 25-327 and as provided in rule 65 of the rules of civil procedure.

3. THAT PROVIDED FOR JOINT POSSESSION OF LIQUID ASSETS OF THE MARITAL PROPERTY DOES NOT PREJUDICE EITHER PARTY'S CLAIM FOR TEMPORARY MAINTENANCE, CHILD SUPPORT OR ATTORNEY FEES.

4. Terminates when the final decree is entered or when the petition for dissolution, legal separation or annulment is dismissed.

G. A person who disobeys or resists an injunction issued pursuant to subsection A, paragraph 1, subdivision (b) or subsection C, paragraph 1 of this section is subject to arrest and prosecution for interference with judicial proceedings pursuant to section 13- 2810 and the following procedures apply:

1. Any party may cause a certified copy of the injunction and return of service on the other party to be registered with the sheriff having jurisdiction of the area in which the party resides. The party originally registering the injunction shall register any changes or modifications of the injunction with THE sheriff. For enforcement by arrest and prosecution for interference with judicial proceedings, a certified copy of the injunction, whether or not registered with THE sheriff, is presumed to be a valid existing order of the court until a final decree of dissolution, legal separation or annulment is entered or the action for dissolution or legal separation is dismissed.

2. A peace officer may, with or without a warrant, arrest a person if THE PEACE OFFICER has probable cause to believe that an offense under this subsection has been committed and has probable cause to believe that the person to be arrested has committed the offense, whether THE offense is a felony or a misdemeanor and whether such offense was committed within or without the presence of the peace officer. The release procedures available under section 13-3883, paragraph 4 and section 13-3903 are not applicable to arrests made pursuant to this subsection.

3. A peace officer making an arrest pursuant to this subsection is not civilly or criminally liable for the arrest if the officer acts ON probable cause and without malice.

4. A person arrested pursuant to this subsection may be released from custody in accordance with the rules of criminal procedure or other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide additional conditions which the court deems appropriate, including participation in any counseling programs available to the defendant.

5. The remedies provided in this subsection for enforcement of the preliminary injunction are in addition to any other civil or criminal remedies available, including civil contempt of court. The use of one remedy does not prevent the simultaneous or subsequent use of any other.

H. FOR THE PURPOSES OF THIS SECTION, "LIQUID ASSETS" MEANS:

1. CASH.
2. TRAVELER'S CHECKS.
3. CASH IN FINANCIAL INSTITUTIONS.
4. LOTTERY WINNINGS.

HISTORY: Approved by the Governor on April 24, 2000

§ 25-318. Disposition of property; retroactivity; notice to creditors; assignment of debts; contempt of court

A. In a proceeding for dissolution of the marriage, or for legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which previously lacked personal jurisdiction over the absent spouse or previously lacked jurisdiction to dispose of the property, the court shall assign each spouse's sole and separate property to such spouse. It shall also divide the community, joint tenancy and other property held in common equitably, though not necessarily in kind, without regard to marital misconduct. For purposes of this section only, property acquired by either spouse outside this state shall be deemed to be community property if the property would have been community property if acquired in this state. This section DOES NOT prevent the court from considering excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.

B. The community, joint tenancy and other property held in common for which no provision is made in the decree shall be from the date of the decree held by the parties as tenants in common, each possessed of an undivided one-half interest.

C. The court may impress a lien ON the separate property of either party or the marital property awarded to either party in order to secure the payment of:

1. Any interest or equity the other party has in or to THE property.
2. COMMUNITY DEBTS THAT THE COURT HAS ORDERED TO BE PAID BY THE PARTIES.
3. An allowance for child support or spousal maintenance, or both.

D. The decree or judgment shall specifically describe by legal description any real property affected and shall specifically describe any other property affected.

E. This section APPLIES through both prospective and retrospective operation to property without regard to the date of acquisition.

F. IN ALL ACTIONS FOR THE DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION THE COURT SHALL REQUIRE THE FOLLOWING STATEMENT IN THE MATERIALS PROVIDED TO THE PETITIONER AND TO BE SERVED ON THE RESPONDENT:

NOTICE

IN YOUR PROPERTY SETTLEMENT AGREEMENT OR DECREE OF DISSOLUTION OR LEGAL SEPARATION, THE COURT MAY ASSIGN RESPONSIBILITY FOR CERTAIN COMMUNITY DEBTS TO ONE SPOUSE OR THE OTHER. PLEASE BE AWARE THAT A COURT ORDER THAT DOES THIS IS BINDING ON THE SPOUSES ONLY AND DOES NOT NECESSARILY RELIEVE EITHER OF YOU FROM YOUR RESPONSIBILITY FOR THESE COMMUNITY DEBTS. THESE DEBTS ARE MATTERS OF CONTRACT BETWEEN BOTH OF YOU AND YOUR CREDITORS (SUCH AS BANKS, CREDIT UNIONS, CREDIT CARD ISSUERS, FINANCE COMPANIES, UTILITY COMPANIES, MEDICAL PROVIDERS AND RETAILERS).

SINCE YOUR CREDITORS ARE NOT PARTIES TO THIS COURT CASE, THEY ARE NOT BOUND BY COURT ORDERS OR ANY AGREEMENTS YOU AND YOUR SPOUSE REACH IN THIS CASE. ON REQUEST, THE COURT MAY IMPOSE A LIEN AGAINST THE SEPARATE PROPERTY OF A SPOUSE TO SECURE PAYMENT OF DEBTS THAT THE COURT ORDERS THAT SPOUSE TO PAY.

YOU MAY WANT TO CONTACT YOUR CREDITORS TO DISCUSS YOUR DEBTS AS WELL AS THE POSSIBLE EFFECTS OF YOUR COURT CASE ON YOUR DEBTS. TO ASSIST YOU IN IDENTIFYING YOUR CREDITORS, YOU MAY OBTAIN A COPY OF YOUR SPOUSE'S CREDIT REPORT BY MAKING A WRITTEN REQUEST TO THE COURT FOR AN ORDER REQUIRING A CREDIT REPORTING AGENCY TO RELEASE THE REPORT TO YOU. WITHIN THIRTY DAYS AFTER RECEIPT OF A REQUEST FROM A SPOUSE WHO IS PARTY TO A DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION ACTION, WHICH INCLUDES THE COURT AND CAUSE NUMBER OF THE ACTION, CREDITORS ARE REQUIRED BY LAW TO PROVIDE INFORMATION AS TO THE BALANCE AND ACCOUNT STATUS OF ANY DEBTS FOR WHICH THE REQUESTING SPOUSE MAY BE LIABLE TO THE CREDITOR. YOU MAY WISH TO USE THE FOLLOWING FORM, OR ONE THAT IS SIMILAR, TO CONTACT YOUR CREDITORS:

CREDITOR NOTIFICATION

DATE: _____

CREDITOR NAME AND ADDRESS:

WITHIN THIRTY DAYS AFTER RECEIPT OF THIS NOTICE, YOU ARE REQUESTED TO PROVIDE THE BALANCE AND ACCOUNT STATUS OF ANY DEBT IDENTIFIED BY ACCOUNT NUMBER FOR WHICH THE REQUESTING PARTY MAY BE LIABLE TO YOU.

NAME: _____

ADDRESS: _____

(SIGNATURE)

(PRINTED NAME)

G. ON THE WRITTEN REQUEST OF ANY PARTY TO A PENDING DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION ACTION, THE COURT, EXCEPT FOR GOOD CAUSE SHOWN, SHALL ISSUE AN ORDER REQUIRING ANY CREDIT REPORTING AGENCY TO RELEASE THE CREDIT REPORT AS TO THE SPOUSE OF THE REQUESTING PARTY ON PAYMENT BY THE REQUESTING PARTY OF ANY CUSTOMARY FEE FOR PROVIDING THE CREDIT REPORT.

H. ON THE REQUEST OF EITHER PARTY AND EXCEPT FOR GOOD CAUSE SHOWN, THE COURT SHALL REQUIRE THE PARTIES TO SUBMIT A DEBT DISTRIBUTION PLAN THAT STATES THE FOLLOWING:

1. HOW COMMUNITY CREDITORS WILL BE PAID.

2. WHETHER ANY AGREEMENTS HAVE BEEN ENTERED INTO BETWEEN THE PARTIES AS TO RESPONSIBILITY FOR THE PAYMENT OF COMMUNITY DEBTS, INCLUDING WHAT, IF ANY, COLLATERAL WILL SECURE THE PAYMENT OF THE DEBT.

3. WHETHER THE PARTIES HAVE ENTERED INTO AGREEMENTS WITH CREDITORS THROUGH WHICH A COMMUNITY DEBT WILL BE THE SOLE RESPONSIBILITY OF ONE PARTY.

I. THE FOLLOWING FORM MAY BE USED TO VERIFY AGREEMENTS WITH CREDITORS:

AGREEMENT WITH CREDITOR

THE PARTIES TO THIS AGREEMENT INCLUDE _____ AND _____ WHO ARE PARTIES TO A DISSOLUTION OF MARRIAGE ACTION FILED IN _____ COUNTY SUPERIOR COURT, ARIZONA, CASE NUMBER _____ AND _____ WHO IS A DULY AUTHORIZED REPRESENTATIVE OF _____ (CREDITOR).

THE UNDERSIGNED PARTIES AGREE THAT THE DEBT OWED BY THE PARTIES TO _____ (CREDITOR) IS TO BE DISPOSED OF AS FOLLOWS (CHECK ONE):

THE DEBT IS THE JOINT RESPONSIBILITY OF THE PARTIES, WITH PAYMENT TO BE MADE ON THE FOLLOWING TERMS: _____

THE BALANCE OF THE DEBT IS THE SOLE RESPONSIBILITY OF _____ AND THE CREDITOR RELEASES _____ FROM ANY FURTHER LIABILITY FOR THAT DEBT, WITH PAYMENT TO BE MADE ON THE FOLLOWING TERMS: _____

THE DEBT HAS BEEN PAID IN FULL AS OF THIS DATE.

WE THE UNDERSIGNED ACKNOWLEDGE THIS AGREEMENT.

DATED: _____

DEBTOR

DEBTOR

CREDITOR'S REPRESENTATIVE

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____,
200_____.

NOTARY PUBLIC

J. IF THE PARTIES ARE NOT ABLE TO AGREE TO A JOINT DEBT DISTRIBUTION PLAN PURSUANT TO SUBSECTION H THE COURT MAY ORDER EACH PARTY TO SUBMIT A PROPOSED DEBT DISTRIBUTION PLAN TO THE COURT. IN ITS ORDERS RELATING TO THE DIVISION OF PROPERTY THE COURT SHALL REFLECT THE DEBT DISTRIBUTION PLAN APPROVED BY THE COURT AND SHALL CONFIRM THAT ANY COMMUNITY DEBTS THAT ARE MADE THE SOLE RESPONSIBILITY OF ONE OF THE PARTIES BY AGREEMENT WITH A CREDITOR ARE THE SOLE RESPONSIBILITY OF THAT PARTY.

K. AN AGREEMENT WITH A CREDITOR PURSUANT TO SUBSECTION I THAT ASSIGNS OR OTHERWISE MODIFIES REPAYMENT RESPONSIBILITY FOR COMMUNITY DEBTS SECURED BY REAL PROPERTY LOCATED IN THIS STATE SHALL INCLUDE ALL OF THE FOLLOWING:

1. A LEGAL DESCRIPTION OF THE REAL PROPERTY.
2. A COPY OF THE NOTE AND RECORDED SECURITY INSTRUMENT, THE REPAYMENT OF WHICH IS TO BE ASSIGNED OR MODIFIED BY THE AGREEMENT WITH A CREDITOR.
3. A WRITTEN AND NOTARIZED ACKNOWLEDGMENT THAT IS EXECUTED BY ALL PARTIES TO THE DEBT, INCLUDING THE LENDER, AND THAT STATES ONE OF THE FOLLOWING:
 - (A) THE TERMS FOR THE REPAYMENT OF THE DEBT REMAIN UNCHANGED.
 - (B) THE TERMS FOR THE REPAYMENT OF THE DEBT HAVE BEEN MODIFIED AND, BEGINNING ON THE DATE OF THE EXECUTION OF THE ACKNOWLEDGMENT, THE CREDITOR HAS AGREED THAT ONE OF THE DEBTORS ASSUMES THE SOLE RESPONSIBILITY FOR THE DEBT AND THAT THE OTHER DEBTOR IS RELEASED FROM ANY FURTHER LIABILITY ON THE DEBT.

(C) THE DEBT IS PAID IN FULL AND ALL PARTIES TO THE DEBT ARE RELEASED FROM ANY FURTHER LIABILITY.

L. AN AGREEMENT EXECUTED PURSUANT TO SUBSECTION K SHALL BE RECORDED BY EITHER PARTY IN THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED.

M. AFTER AN AGREEMENT IS RECORDED PURSUANT TO SUBSECTION L, EITHER PARTY MAY REQUEST THAT ON PAYMENT OF THE TITLE COMPANY'S FEES FOR THE DOCUMENT A TITLE COMPANY AUTHORIZED TO DO BUSINESS IN THIS STATE PROVIDE THE REQUESTING PARTY WITH A LIEN SEARCH REPORT OR OTHER DOCUMENTARY EVIDENCE OF LIENS AND OTHER AGREEMENTS OF RECORD IN THE TITLE TO THE PROPERTY.

N. IF A PARTY FAILS TO COMPLY WITH AN ORDER TO PAY DEBTS, THE COURT MAY ENTER ORDERS TRANSFERRING PROPERTY OF THAT SPOUSE TO COMPENSATE THE OTHER PARTY. IF THE COURT FINDS THAT A PARTY IS IN CONTEMPT AS TO AN ORDER TO PAY COMMUNITY DEBTS, THE COURT MAY IMPOSE APPROPRIATE SANCTIONS UNDER THE LAW. A PARTY MUST BRING AN ACTION TO ENFORCE AN ORDER TO PAY A DEBT PURSUANT TO THIS SUBSECTION WITHIN TWO YEARS AFTER THE DATE IN WHICH THE DEBT SHOULD HAVE BEEN PAID IN FULL.

O. WITHIN THIRTY DAYS AFTER RECEIPT OF A WRITTEN REQUEST FOR INFORMATION FROM A SPOUSE WHO IS A PARTY TO A DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION ACTION, WHICH INCLUDES THE COURT AND CAUSE NUMBER OF THE ACTION, A CREDITOR SHALL PROVIDE THE BALANCE AND ACCOUNT STATUS OF ANY DEBTS OF EITHER OR BOTH SPOUSES IDENTIFIED BY ACCOUNT NUMBER FOR WHICH THE REQUESTING SPOUSE MAY BE LIABLE TO THE CREDITOR.

HISTORY: Approved by the Governor on March 13, 2000

